

16651/SAB/PJB

Attorney ID# 6224469

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS -
EASTERN DIVISION**

KRISHNA NARSIMHAN

Plaintiff,

vs.

LOWE'S HOME CENTERS, LLC,

Defendant.

)
)
)
)
)
)
)

Case No.: 1:19-cv-01255

PLAINTIFF'S MOTION IN LIMINE # 14

**TO BAR ANY REFERENCE TO PLAINTIFF CONTRIBUTING TO OR BEING THE
CAUSE OF THE SUBJECT OCCURRENCE**

NOW COMES Plaintiff, KRISHNA NARSIMHAN, by and through his attorneys, ANESI, OZMON, RODIN, NOVAK & KOHEN, LTD., prior to the selection of the jury in this cause, moves this Honorable Court to enter an Order *in Limine* barring and prohibiting Defendant, LOWE'S HOME CENTERS, LLC, or its counsel, agents, employees and/or any witness called by the Defendant, or questions by defense counsel from making statements, offering evidence, testimony, remarks, arguments or from conveying directly or indirectly to the panel by any means, including the fact that this motions have been presented and ruled upon, for the subject matter identified in the title and body of this motion, and in support states as follows:

INTRODUCTION

Plaintiff seeks an order from the Court barring any argument, testimony or comments to or in the presence of the jury that Plaintiff was contributorily negligent in causing the metal down rod to strike his right, lower extremity or was the sole cause of

the subject occurrence. There is no evidence, nor can the Defendant identify any evidence, that any actions by the Plaintiff contributed to or was the cause of the subject occurrence.

RELEVANT FACTS

Plaintiff was injured on June 25, 2016 at Lowe's Home Center in Carol Stream, Illinois wherein one of Defendant's employees, Marcella Martinez, caused a metal down rod to strike Plaintiff's right lower extremity. The incident occurred at a checkout register and was recorded by the store's video surveillance system. The video depicts the Plaintiff approach the register with a shopping cart with the metal down rod and the ceiling fan he was intending to purchase. The video depicts Plaintiff taking his hands off the cart and reach into his pocket to get his wallet to pay for the items in his cart.

The video shows Defendant's employee is the only person in control of the metal down rod just before the occurrence. Ms. Martinez walks out from behind the checkout register and grab the down rod. She removes the down rod from the cart in order to scan the bar code. After, she attempts to place it back into the cart. The video shows that as she places the metal down rod back into the cart, the manner in which she places the metal down rod, causes it to slide between the openings in the shopping cart and strike the plaintiff on the right, lower extremity. This impact causes Plaintiff to fall to the floor and remain on the floor for several seconds until he is able to stand up. (*The video of the subject incident is available for the court to observe. The parties have agreed to its admission in evidence in the Joint Final Pretrial Order.*)

At her deposition, Defendant's employee Marcella Martinez, testified that she was the only one who handled the metal down rod, she alone controlled it and Plaintiff

did not do anything to cause the metal down rod to strike slide through the shopping cart and strike Plaintiff's right, lower extremity. Furthermore, she did not offer any warning to Plaintiff before she placed the metal down rod in the cart. (See below)

(Exhibit A: Deposition of Marcella Martinez, page 23, lines 16-18, taken on July 8, 2020)

Q. Did Mr. Narsimhan have his hands on that rod at all?

A. No.

(Exhibit A: Dep of Marcella Martinez, page 42, line 5 through page 44, line 13, taken on July 8, 2020)

Q. You placed the rod in the cart in a manner that allowed it to fall through the hole in the cart, true?

A. Yes.

Q. And this cart was the same as every other cart that's used at Lowe's; in other words, there was nothing defective, or strange, or unusual about it, is that a fair statement?

A. That is correct.

Q. When Mr. Narsimhan rolled that cart up to your cash register, was there anything wrong with the way the cart was loaded or with the way the rod was in the cart?

A. Yes, those rods were not meant to be in those carts.

Q. And did you tell him that?

A. I do not remember.

Q. But you knew that as part of your training that you're not supposed to put those rods in those carts?

A. Correct.

Q. But you put that rod in that cart after you scanned it, right?

A. I did.

Q. And did you know as part of your training that the reason you don't put those rods in those carts is because it could fall through the holes and hurt somebody?

A. Correct.

Q. And you knew that at the time?

A. Yes.

Q. But you put the rod in the cart anyway, right?

A. Yes.

Q. Did Mr. Narsimhan do anything to cause his injury?

A. No.

Q. Now you wrote in your statement that you watched it fall – I'm sorry, I'll let you read the next line, I don't want to mischaracterize it. Just read the next line, please starting with: I watched it fall out.

A. I watched it fall out and told him be careful. He steps back as it's falling.

Q. Okay. When you say you told him to be careful, I want you to explain that to me. Did you see the rod falling out of the cart?

A. Yes.

Q. At what point did you tell him to be careful, was it -- well, strike it.

Q. At what point did you tell him to be careful?

A. As it was falling.

Q. Not before you put it in?

A. No.

ARGUMENT

It is settled in Illinois that where there is no testimony or other evidence as to the plaintiff's contributory negligence, no instruction on that issue should be given to the jury. *Smith v. Bishop*, 32 Ill.2d 380, 205 N.E.2d 461. Whether a plaintiff is guilty of contributory negligence is ordinarily a question of fact for the jury. It becomes a

question of law only when the evidence is so clearly insufficient to establish due care that all reasonable mind would reach the conclusion that there was contributory negligence. *Swenson v. City of Rockford*, 9 Ill. 2d 122 (1956); *Gray v. Terminal R.R. Ass'n of St. Louis*, 37 Ill. App. 2d 3765 (4th Dist. 1962)

Ms. Martinez testified that based on her personal involvement as well as re review of the video, that Plaintiff did not do anything to cause his injury. (Ex. A., Pg. 43:15-17) Ms. Martinez was the only one in control of the down rod prior to the incident and she is the one that placed it in the shopping cart in such a way as to cause it to slide through the openings in the cart and strike Mr. Narsimhan.

Further, the Asset Protection and Safety Officer, for the subject Lowe's store Eileen Parks, prepared a report after the incident and preserved the video. She reviewed the video of the incident and she has no criticism of the Plaintiff's actions.

(Exhibit B: Dep of Eileen Parks, page 20, line 12 through page 21, line 8, taken on July 8, 2020)

Q. Do you have any criticism of anything that Mr. Narsimhan did?

A. If I'm understanding you correctly, you're asking if I have any criticism of what he did?

Q. Yes.

A. No, I do not.

Q. Okay. Do you have any personal knowledge of what occurred aside from what you saw on the video?

A. I do not.

Q. Do you have any knowledge of this incident from speaking to any witness or from any other source aside from what you saw in the video?

A. I do not.

Q. So if you watch the video and I watched the video, then we each have the same amount of information about what occurred, is that what you're saying?

A. Yes.

Furthermore, the store manager for the subject Lowe's on the date of the incident, Jody Rankin, gave a deposition in this case. Mr. Rankin testified that based on his personal knowledge and conversations with other employees, Plaintiff did not have any responsibility for the downrod falling through the cart:

(Exhibit C: Deposition of Jody Rankin, Pg. 32: 16 through 33: 8, taken on December 9, 2020)

Q. Okay. From this document, from the e-mail, from any memory you may have of the incident, is there anything that you know of, from talking to people involved or witness, that in any way indicates that Krishna Narsimhan had any responsibility for the downrod falling through the cart and hitting his foot?

A. No

Moreover, Mr. Rankin gave the opinion that there was no criticism of the cart that Plaintiff used to shop for the downrod, and the use of the cart was within Lowe's policy:

(Exhibit C: Deposition of Jody Rankin, Pg. 45, lines 12-17, taken on December 9, 2020)

Q. Okay. And once completing the scanning of the – of the rod, she then put it back in the cart and that's when the accident occurred, okay. So my question to you is, was it proper for her to put it back into the cart?

A. Yes.

He also testified that if the downrod is placed carefully into the cart, this incident should never have happened:

(Exhibit C: Deposition of Jody Rankin, Pg. 36, lines 7-10, taken on December 9, 2020)

Q. Okay. Would you agree with me that if a metal downrod is placed into a car carefully, that this incident should never have happened?

A. Yes.

Finally, it is the responsibility of the Lowe's employee to put the metal downrod in the cart carefully so as not to hurt a customer:

(Exhibit C: Deposition of Jody Rankin, Pg. 32, lines 16-24, taken on December 9, 2020)

Q. Okay. You would agree with me that – well, correct me if I'm wrong, but would you agree with me that if a Lowe's store cashier is placing a metal downrod into a customer's cart, the Lowe's employee should perform that task carefully so that it doesn't fall through the customer's cart and hit a customer's ankle, right?

A. Yes.

The Defendant has not disclosed any witness with any personal knowledge nor expert opinion that the Plaintiff caused or contributed to the subject incident. Defendant has not produced any evidence in discovery that would even infer that Plaintiff caused or contributed to the occurrence. Indeed, all three of the Lowe's employees who were deposed in this case, all testified, that Plaintiff was not responsible for the rod falling through the cart and striking him. Therefore, any testimony, questions or comments about Plaintiff's contributory negligence or role in the subject occurrence would be unfairly prejudicial to the Plaintiff.

CONCLUSION

WHEREFORE, Plaintiff respectfully requests this Court enter an order barring and prohibiting Defendant, LOWE'S HOME CENTERS, LLC, or its counsel, agents, employees and/or any witness called by the Defendant, or questions by defense counsel from making statements, offering evidence, testimony, remarks, arguments or from conveying directly or indirectly to the panel by any means, including the fact that

this motions have been presented and ruled upon, that Plaintiff caused the subject occurrence or was contributorily negligent during the occurrence.

Respectfully submitted:

/s/Steven A. Berman

Attorneys for Plaintiff

Steven A. Berman sberman@anesilaw.com
Patrick J. Blum pblum@anesilaw.com
ANESI, OZMON, RODIN, NOVAK & KOHEN, LTD.
161 N. Clark St. / 21st Floor
Chicago, IL 60601
Telephone: 312/372-3822
Fax: 312/372-3833

1	IN THE UNITED STATES DISTRICT COURT	1	I N D E X
2	NORTHERN DISTRICT OF ILLINOIS	2	WITNESS EXAMINATION
3	EASTERN DIVISION	3	MARCELLA MARTINEZ
4	KRISHNA NARSIMHAN,)	4	BY MR. TEICH 5
5	Plaintiff,)	5	
6	vs.) No. 19-cv-01255	6	
7	LOWES HOME CENTERS, LLC,)	7	
8	Defendant.)	8	E X H I B I T S
9		9	NUMBER IDENTIFICATION
10	The discovery deposition of	10	Martinez Deposition
11	MARCELLA MARTINEZ taken in the above-entitled	11	Exhibit No. 1 33
12	cause, before MARGARET A. RITACCO, CSR, a notary	12	Exhibit No. 2 84
13	public of Cook County, Illinois, on July 8th, 2020,	13	Exhibit No. 3 84
14	at the time of 10:00 a.m., via videoconference,	14	
15	pursuant to notice.	15	
16		16	
17		17	
18		18	
19		19	
20		20	
21		21	
22		22	
23	Reported by: MARGARET A. RITACCO, CSR	23	
24	License No.: 084-002796	24	
	1		3
1	APPEARANCES:	1	THE REPORTER: My name is Margaret Ritacco, CSR.
2	ANESI, OZMON, RODIN,	2	The parties are present via videoconference to
3	NOVAK & KOHEN, LTD., by	3	take the discovery deposition of Marcella
4	MR. MICHAEL L. TEICH,	4	Martinez in the matter of Krishna Narsimhan
5	161 North Clark Street, 21st Floor	5	versus Lowe's Home Center, Case No. 19-cv-1255
6	Chicago, Illinois 60601	6	in the United States District Court, Northern
7	(312) 372-3822	7	District of Illinois, Eastern Division. Today's
8	mteich@anesilaw.com	8	date is 7/8/20, and the time is 10:00 a.m.
9	Representing the Plaintiff	9	This deposition is being taken at the
10		10	instance of the plaintiff. This deposition is
11	LEWIS, BRISBOIS, BISGAARD & SMITH, by	11	being taken by means of videoconferencing, and
12	MR. RONALD W. PAYNE,	12	the oath will be administered remote by the
13	555 West Monroe Street, Suite 300	13	court reporter pursuant to Governor Pritzker's
14	Chicago, Illinois 60661	14	Executive Order 2020-14.
15	(312) 463-3360	15	will all parties present please state
16	Ron.Payne@lewisbrisbois.com	16	your name and agreement with this procedure.
17	Representing the Defendant.	17	MR. TEICH: This is Michael Teich and yes, we
18		18	agree.
19		19	MR. PAYNE: This is Ron Payne and I agree.
20		20	THE WITNESS: This is Marcella Martinez and I
21		21	agree.
22		22	(Witness sworn.)
23		23	MR. TEICH: Ms. Martinez, please state and
24		24	spell your name for the record.
	2		4



<p>1 THE WITNESS: Marcella Renee Martinez. It's</p> <p>2 M-A-R-C-E-L-L-A, R-E-N-E-E, last name,</p> <p>3 M-A-R-T-I-N-E-Z.</p> <p>4 MR. TEICH: Thank you.</p> <p>5 MARCELLA MARTINEZ,</p> <p>6 called as a witness herein, having been first</p> <p>7 duly sworn, was examined and testified as</p> <p>8 follows:</p> <p>9 EXAMINATION</p> <p>10 BY MR. TEICH:</p> <p>11 Q. Let the record reflect that this is the</p> <p>12 deposition of Marcella Renee Martinez taken</p> <p>13 pursuant to notice.</p> <p>14 Ms. Martinez, my name is Michael Teich.</p> <p>15 I represent the plaintiff in this case, and I'm</p> <p>16 going to be asking you the majority of the</p> <p>17 questions, and when we finish, Mr. Payne here</p> <p>18 may have some questions for you as well.</p> <p>19 Have you ever given a deposition</p> <p>20 before?</p> <p>21 A. No.</p> <p>22 Q. Okay. I'm going to go over a few</p> <p>23 ground rules, and the purpose of those is to</p> <p>24 make this go as smoothly as possible and to make</p> <p style="text-align: right;">5</p>	<p>1 transcript will be the primary record of this</p> <p>2 conversation, and so we can't speak over one</p> <p>3 another. So just wait until I finish my</p> <p>4 question before you start to answer, and I will</p> <p>5 do the same thing, okay?</p> <p>6 A. Okay.</p> <p>7 Q. Great. And the third thing to keep in</p> <p>8 mind with the court reporter is you have to use</p> <p>9 words when you answer the question, and I know</p> <p>10 that sounds strange, but you'd be surprised how</p> <p>11 often somebody says uh-huh or uh-uh or shakes</p> <p>12 their head, or nods, or something like that, and</p> <p>13 the court reporter can't take that down, so you</p> <p>14 need to use words, say yes, no, that kind of</p> <p>15 thing, okay?</p> <p>16 A. Got it.</p> <p>17 Q. All right. If at any point during the</p> <p>18 deposition you want to take a break, let me know</p> <p>19 and I will be happy to take a break. We can go</p> <p>20 off the record. You have to answer whatever</p> <p>21 question -- whatever question is pending, but as</p> <p>22 soon as you do that, then we can take a break</p> <p>23 for as long as you like, okay?</p> <p>24 A. I understand.</p> <p style="text-align: right;">7</p>
<p>1 the court reporter's job as easy as possible.</p> <p>2 So the first rule is that I want to</p> <p>3 make sure that you understood every question</p> <p>4 before you answered it. You should not be in a</p> <p>5 position of having to hear -- I'm sorry, you</p> <p>6 should not be in the position of having to</p> <p>7 answer a question that you didn't hear, maybe</p> <p>8 the video broke up, maybe there was background</p> <p>9 noise, or a question that you didn't understand.</p> <p>10 So if you need me to repeat a question or</p> <p>11 rephrase a question, I will be happy to do that,</p> <p>12 just let me know, okay?</p> <p>13 A. Okay.</p> <p>14 Q. Okay. Otherwise, when we read the</p> <p>15 transcript later, if you answer a question and</p> <p>16 you don't tell us that you didn't understand it,</p> <p>17 we're going to all assume that you understood</p> <p>18 and heard the question before you answered it,</p> <p>19 okay?</p> <p>20 A. Okay.</p> <p>21 Q. Another thing to keep in mind is that</p> <p>22 the court reporter is writing everything down</p> <p>23 that's said. Even though we're also being video</p> <p>24 recorded in this instance, the court reporter's</p> <p style="text-align: right;">6</p>	<p>1 Q. Are you able to hear me and see me</p> <p>2 okay?</p> <p>3 A. Yes.</p> <p>4 Q. All right, great. If at any point</p> <p>5 there's -- if there's any problem with the video</p> <p>6 or any technological issue, just let us know.</p> <p>7 A. Okay.</p> <p>8 Q. You told me that you've never given a</p> <p>9 deposition before. Have you ever been a party</p> <p>10 to or a witness in any other legal proceeding?</p> <p>11 A. First on training for my job I have.</p> <p>12 Q. Okay. What kind of -- tell me about</p> <p>13 that.</p> <p>14 A. The legal proceeding or my job?</p> <p>15 Q. Well, how is it that you were involved</p> <p>16 in a legal proceeding as part of your job</p> <p>17 training?</p> <p>18 A. I work in professional liability</p> <p>19 insurance, so as I was learning more about</p> <p>20 professional liability, some of our insurers do</p> <p>21 have to do depositions or attend trials as</p> <p>22 witnesses, so I was able to either be on the</p> <p>23 phone or watch a video.</p> <p>24 Q. Okay. Well, then this process will</p> <p style="text-align: right;">8</p>



<p>1 give you some insight into that, I suppose, 2 going forward.</p> <p>3 A. Yes, sir.</p> <p>4 Q. What is your current position, who do 5 you work for and what do you do?</p> <p>6 A. I work for Hanover Insurance, and I am 7 a professional liability claims adjuster.</p> <p>8 Q. And when did you begin that job?</p> <p>9 A. I have been there for three years now.</p> <p>10 Q. Okay. And before I get into that, just 11 give me your home address please, I didn't ask 12 you that.</p> <p>13 A. It's [REDACTED], and that's West 14 Chicago, Illinois 60185.</p> <p>15 Q. Do you have any plans to move from that 16 address?</p> <p>17 A. Not any time soon.</p> <p>18 Q. And how long have you been there?</p> <p>19 A. I will have been here in March for a 20 year.</p> <p>21 Q. Okay. Is that a house or an apartment?</p> <p>22 A. It's a house.</p> <p>23 Q. And the only reason I'm asking you 24 these questions is because you're no longer</p> <p style="text-align: right;">9</p>	<p>1 exam in Texas. Are you -- do you handle claims 2 that are primarily based in Texas or what?</p> <p>3 A. No, because Texas' license covers, I 4 think, 40 -- 45 or 47, I'm not exactly sure on 5 the number of states, so they cover most of the 6 states in the United States, so I practice all 7 over.</p> <p>8 Q. Okay. So you handle claims in a 9 variety of the states around the country?</p> <p>10 A. Correct.</p> <p>11 Q. And you said professional liability, so 12 is that physicians, lawyers, what kind of 13 professionals?</p> <p>14 A. Mostly lawyers, accountants, sometimes 15 mortgage field services, sometimes real estate 16 agents. Small business owners.</p> <p>17 Q. Okay. You've never testified, though, 18 officially, you've only been through this sort 19 of process as part of your training, is that a 20 fair statement?</p> <p>21 A. Correct.</p> <p>22 Q. And what is your highest level of 23 formal education?</p> <p>24 A. High school diploma.</p> <p style="text-align: right;">11</p>
<p>1 employed by Lowe's; if this case were to go to 2 trial down the road and we needed to contact 3 you, we might not be able to rely on them to 4 find you, so that's why I'm asking you these 5 questions. I'm not trying to be too intrusive.</p> <p>6 Tell me a little bit about your 7 training at Hanover Insurance, when did that 8 begin?</p> <p>9 A. So when I -- my first year I had to do 10 just system training. I just started out as a 11 regular claims adjuster assistant, so I didn't 12 do too much at the beginning, it was just all 13 paperwork and learning the system. After about 14 a year is when they promoted me.</p> <p>15 Then I had to take the Texas adjusters 16 test, so that was also just book training and 17 learning about the business. I didn't get to 18 start learning about depositions and trials and 19 lawsuits until this past year.</p> <p>20 Q. Okay. And that all occurred, that 21 training occurred, largely in 2017, does that 22 sound right?</p> <p>23 A. Yes.</p> <p>24 Q. All right. And you said you took the</p> <p style="text-align: right;">10</p>	<p>1 I'm sorry, you cut out a little bit.</p> <p>2 THE REPORTER: I'm sorry, we couldn't hear 3 you here.</p> <p>4 MR. TEICH: Okay. I heard some background 5 noise, I don't know what that was. It wasn't 6 coming from my end. We'll try again.</p> <p>7 BY MR. TEICH:</p> <p>8 Q. I asked you when you graduated high 9 school.</p> <p>10 A. 2010.</p> <p>11 Q. Where?</p> <p>12 A. Southern Garrett High School. It's in 13 Oakland, Maryland.</p> <p>14 Q. And when did you move to Illinois?</p> <p>15 A. Let's see. Maybe 2000 -- at the end of 16 2012.</p> <p>17 Q. Okay. So you started at Hanover 18 Insurance in 2017. What was the job you had 19 immediately before that?</p> <p>20 A. Lowe's.</p> <p>21 Q. And when did you start working at 22 Lowe's, and when did you finish working at 23 Lowe's?</p> <p>24 A. So -- sorry, I was confused when you</p> <p style="text-align: right;">12</p>



<p>1 said I no longer work there. I still currently</p> <p>2 work there.</p> <p>3 Q. Sorry, I didn't realize that. So you</p> <p>4 currently work both at Lowe's and at Hanover?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. When did you start work for</p> <p>7 Lowe's, when did you first work for Lowe's?</p> <p>8 A. I believe my seasonal start date was</p> <p>9 January -- I think February 24, 2017 -- no,</p> <p>10 2016.</p> <p>11 Q. Okay. And when you started in February</p> <p>12 of 2016, you were working full time, or part</p> <p>13 time, or seasonally, how did that work?</p> <p>14 A. I started as a seasonal cashier.</p> <p>15 Q. Okay. And did you ever become a</p> <p>16 full-time cashier or a full-time employee?</p> <p>17 A. Not -- no.</p> <p>18 Q. Okay. So the incident that we're here</p> <p>19 to discuss occurred in June of 2016.</p> <p>20 THE REPORTER: Mike, you went out there. We</p> <p>21 left off with in June of 2016.</p> <p>22 BY MR. TEICH:</p> <p>23 Q. Okay, I'm going to start the question</p> <p>24 again.</p> <p style="text-align: right;">13</p>	<p>1 a seasonal cashier for Lowe's?</p> <p>2 A. I think until about July or August. It</p> <p>3 may have been a little bit longer, I don't know</p> <p>4 when I signed my -- my permanent position.</p> <p>5 Q. All right. Now you said the busy</p> <p>6 season. So February doesn't strike me as a busy</p> <p>7 season for most businesses. Is it a busy season</p> <p>8 for Lowe's?</p> <p>9 A. No, but that is when they start hiring</p> <p>10 for the season, and that's when they'll</p> <p>11 typically start training.</p> <p>12 Q. Okay. And so you became a permanent</p> <p>13 Lowe's employee, you said, maybe around August</p> <p>14 of 2016?</p> <p>15 A. Uh-huh. Yes.</p> <p>16 Q. Are you still a permanent Lowe's</p> <p>17 employee?</p> <p>18 A. I am.</p> <p>19 Q. Okay. And are you a full-time</p> <p>20 permanent employee, or a part time, or is there</p> <p>21 some other distinction?</p> <p>22 A. I'm a part time.</p> <p>23 Q. And what is your current position or</p> <p>24 title with Lowe's?</p> <p style="text-align: right;">15</p>
<p>1 The incident that we're here to</p> <p>2 discuss, the one involving my client, occurred</p> <p>3 in June of 2016. So does that seem about right</p> <p>4 to you, that you'd been working for Lowe's for</p> <p>5 about four months at that time?</p> <p>6 A. Yes.</p> <p>7 Q. Were you still working as a seasonal</p> <p>8 cashier in June of 2016?</p> <p>9 A. Yes.</p> <p>10 Q. So describe for me, I don't know very</p> <p>11 much about Lowe's employment practices, as a</p> <p>12 matter of fact I know nothing about Lowe's</p> <p>13 employment practices, what does it mean to be a</p> <p>14 seasonal cashier as opposed to any other type of</p> <p>15 cashier?</p> <p>16 A. So when we get into our busy season, we</p> <p>17 tend to hire a lot of extra help. That doesn't</p> <p>18 mean that they're permanent. So at the end of</p> <p>19 our season, our management has -- has the right</p> <p>20 to be like okay, your service with us is done</p> <p>21 now, or they offer them a permanent position and</p> <p>22 then they have them sign a piece of paper for</p> <p>23 it.</p> <p>24 Q. Okay. And for how long did you stay as</p> <p style="text-align: right;">14</p>	<p>1 A. Currently I am an appliance associate.</p> <p>2 Q. Back in June of 2016, you were still</p> <p>3 working as a cashier, is that right?</p> <p>4 A. Correct.</p> <p>5 Q. And when did you change from being a</p> <p>6 cashier to having a different position with the</p> <p>7 company?</p> <p>8 A. Just a few weeks ago.</p> <p>9 Q. So from February of 2016 through a few</p> <p>10 weeks ago, you were a cashier for Lowe's?</p> <p>11 A. So about -- I want to say maybe right</p> <p>12 after the summertime they moved me to customer</p> <p>13 service, and 90 percent of my time when I worked</p> <p>14 there was spent in customer service.</p> <p>15 Q. And that would have been the end of</p> <p>16 last summer?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. When you became a part time --</p> <p>19 strike that.</p> <p>20 When you became a permanent employee in</p> <p>21 August of 2016, did you also become a full-time</p> <p>22 employee?</p> <p>23 A. No.</p> <p>24 Q. Have you ever been a full-time</p> <p style="text-align: right;">16</p>



<p>1 employee?</p> <p>2 A. No.</p> <p>3 Q. Okay. So you've always worked part</p> <p>4 time for Lowe's?</p> <p>5 A. Yes.</p> <p>6 Q. What did you do before you worked for</p> <p>7 Lowe's?</p> <p>8 A. I was a bartender at Buffalo Wild</p> <p>9 wings.</p> <p>10 Q. Which one?</p> <p>11 A. The one in Warrenville.</p> <p>12 Q. How long did you do that?</p> <p>13 A. Probably about three years.</p> <p>14 Q. Do you still do that?</p> <p>15 A. I do not.</p> <p>16 Q. You stopped that when you went to</p> <p>17 Lowe's?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. Had you had any retail</p> <p>20 experience prior to working as a cashier at</p> <p>21 Lowe's?</p> <p>22 A. Nope, I had always been in the food</p> <p>23 industry.</p> <p>24 Q. Aside from Lowe's, Lowe's was the only</p> <p style="text-align: right;">17</p>	<p>1 reports, regarding this incident, aside from</p> <p>2 your handwritten?</p> <p>3 A. No.</p> <p>4 Q. So I mentioned a few minutes ago the</p> <p>5 incident and it occurred on June 25th, 2016 at</p> <p>6 the Lowe's location in Carol Stream, is that</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. Do you remember that incident?</p> <p>10 A. Vaguely.</p> <p>11 Q. Okay. The Carol Stream location, is</p> <p>12 that the location that you worked at regularly</p> <p>13 in June of 2016?</p> <p>14 A. Yes.</p> <p>15 Q. Is that the only location you've ever</p> <p>16 worked at for Lowe's?</p> <p>17 A. Yes.</p> <p>18 Q. And on that day, on June 25, 2016, you</p> <p>19 were working at the cash register, is that</p> <p>20 right?</p> <p>21 A. Yes.</p> <p>22 Q. And Mr. Narsimhan, the plaintiff in</p> <p>23 this case, was one of your customers, is that</p> <p>24 right?</p> <p style="text-align: right;">19</p>
<p>1 retail job you've ever had, is that a fair</p> <p>2 statement?</p> <p>3 A. Yes.</p> <p>4 Q. Lowe's is the only job you've had where</p> <p>5 you've worked a checkout line like you did at</p> <p>6 Lowe's as a cashier?</p> <p>7 A. Yes.</p> <p>8 Q. Now I -- I know you're not in the same</p> <p>9 room as your attorney. Did your attorney</p> <p>10 provide any documents to you to review prior to</p> <p>11 your deposition?</p> <p>12 A. The -- the incident report.</p> <p>13 Q. The handwritten one that you prepared?</p> <p>14 A. I believe so, yes.</p> <p>15 Q. Okay. Any other documents?</p> <p>16 A. No.</p> <p>17 Q. Have you reviewed, either today or</p> <p>18 yesterday in preparation for this deposition, or</p> <p>19 at any previous time, have you reviewed any of</p> <p>20 the videos that were taken of this incident?</p> <p>21 A. I did not.</p> <p>22 Q. Okay. Have you reviewed either in</p> <p>23 preparation for your deposition or at any</p> <p>24 previous time any other document, or statements,</p> <p style="text-align: right;">18</p>	<p>1 A. Yes.</p> <p>2 Q. He was checking out?</p> <p>3 A. Yes.</p> <p>4 Q. What do you remember about what it was</p> <p>5 that he was purchasing?</p> <p>6 A. So it was like a metal rebar.</p> <p>7 Q. Do you remember anything else?</p> <p>8 A. No, just the -- just the few pieces of</p> <p>9 rebar. It was metal bar.</p> <p>10 Q. Okay. Now it's my understanding that,</p> <p>11 and just to give you the context, you know,</p> <p>12 obviously he's already given a deposition in</p> <p>13 this case, I assume you've not reviewed the</p> <p>14 deposition transcript for his deposition, have</p> <p>15 you?</p> <p>16 A. No.</p> <p>17 Q. Okay. And he described that among</p> <p>18 other things, he was purchasing what he called a</p> <p>19 down rod for a ceiling fan.</p> <p>20 You popped out -- you popped away there</p> <p>21 for a second, I don't know if you heard that.</p> <p>22 Did you hear my question?</p> <p>23 A. I'm sorry, can you repeat it.</p> <p>24 Q. Yes. Mr. Narsimhan described that what</p> <p style="text-align: right;">20</p>



<p>1 he was purchasing was a down rod that would be 2 used to suspend a ceiling fan. Does that sound 3 right to you, or do you think it was different 4 than that?</p> <p>5 A. I don't know. I'm not familiar with 6 the metal bars. I just remember it being metal 7 bars.</p> <p>8 Q. Okay. So you just remember it was some 9 kind of a metal bar?</p> <p>10 A. Yes.</p> <p>11 Q. You don't know what the purpose of it 12 was?</p> <p>13 A. No.</p> <p>14 Q. Okay. Because you referred to it as 15 rebar before, which is a different kind of a 16 thing used in construction, but if it was in 17 fact a ceiling down rod, ceiling fan down rod, 18 you wouldn't dispute that, would you?</p> <p>19 A. No.</p> <p>20 Q. And it's my understanding that he came 21 up to the register with a cart. Is that your 22 recollection as well?</p> <p>23 A. Yes.</p> <p>24 Q. And it's my understanding that you came</p> <p style="text-align: right;">21</p>	<p>1 rod out and scanned it and you were placing it 2 back into the cart, is that correct?</p> <p>3 A. Correct.</p> <p>4 Q. Was anybody else assisting you in 5 placing that rod into the cart?</p> <p>6 A. No.</p> <p>7 Q. Did Mr. Narsimhan have his hand on that 8 rod --</p> <p>9 THE REPORTER: You went out there, Mike.</p> <p>10 THE WITNESS: I'm sorry, you cut out.</p> <p>11 MR. TEICH: I hear the background noise.</p> <p>12 Hold on one second. Okay. Can you hear me 13 better now?</p> <p>14 THE WITNESS: Yes.</p> <p>15 BY MR. TEICH:</p> <p>16 Q. Did Mr. Narsimhan have his hands on 17 that rod at all?</p> <p>18 A. No.</p> <p>19 Q. Okay. So as you were placing the rod 20 into the cart, what's the last thing you 21 remember seeing?</p> <p>22 A. I remember placing it in the corner of 23 the cart so it wouldn't slide through a hole, 24 and I turned around to go to my register.</p> <p style="text-align: right;">23</p>
<p>1 out from behind your counter as part of the 2 checkout process, is that your understanding, 3 too?</p> <p>4 A. Yes.</p> <p>5 Q. And you removed the rod from his cart, 6 is that right?</p> <p>7 A. Yes.</p> <p>8 Q. And you scanned the rod?</p> <p>9 A. Yes.</p> <p>10 Q. And then you tried to place the rod 11 back into the cart, is that right?</p> <p>12 A. Yes.</p> <p>13 Q. And when you let go of the rod, as you 14 were placing it into the cart, it fell and hit 15 his foot or ankle, is that correct?</p> <p>16 A. I did not see that part.</p> <p>17 Q. Okay. So which part did you not see, 18 the part where it hit him, or the part where it 19 fell, or which?</p> <p>20 A. I did not see the part where it slid 21 through the cart and hit him.</p> <p>22 Q. Okay. So let's break that down a 23 little bit. So it's your -- I think we're in 24 agreement up until the point where you took the</p> <p style="text-align: right;">22</p>	<p>1 Q. Okay. And what's the next thing that 2 happened that you recall?</p> <p>3 A. When I went to my register, I did hear 4 him say ow and kneel down.</p> <p>5 Q. Okay. And is it your recollection that 6 you made it all the way back to your register 7 before you heard him yell ow and kneel down?</p> <p>8 A. Yes.</p> <p>9 Q. And by the way, we know that this was 10 around 9:35 a.m.</p> <p>11 Is that consistent with what you 12 remember?</p> <p>13 A. I don't know.</p> <p>14 Q. That's fine. And by the way, I should 15 have told you this earlier in the deposition: 16 If at any time I ask you a question and you 17 don't know the answer, I want you to tell me 18 that you don't know. I don't want you to guess 19 or any of those things. It's perfectly fine if 20 it's a true statement to say I don't know or I 21 don't remember, okay?</p> <p>22 A. Okay.</p> <p>23 Q. All right. So if we -- if I tell you 24 that this happened around 9:35 a.m., you don't</p> <p style="text-align: right;">24</p>



<p>1 have any reason to despite that, you just don't 2 remember one way or the other, is that a fair 3 statement? 4 A. Correct. 5 Q. Okay. Do you remember which register 6 you were working on? 7 A. Register 9. 8 Q. And how many registers were there at 9 that time? 10 A. On the front end there's 1, 2, 3, 4, 5, 11 6 on the front end. 12 Q. So how is it that this one is labeled 13 No. 9? 14 A. So it starts all the way in lumber from 15 No. 1 and goes all the way to outside garden to 16 I believe -- to believe -- I believe it's No. 17 21. 18 Q. I see. And when you say on the front 19 end, was this register No. 9 considered to be 20 one of the six that was in the front end? 21 A. Correct. 22 Q. And where is register 9 in relation to 23 the store end? 24 A. So register 9 is at the exit doors, and 25</p>	<p>1 who else would have been around the scene at 2 that time? 3 A. No. 4 Q. Okay. I'm going to ask you that 5 question right now. 6 So, obviously, you were there at the 7 register and Mr. Narsimhan was there. Who else 8 do you recall that would have been in the 9 vicinity or in a position that they did or might 10 have seen this occur? 11 A. My head cashier. 12 Q. Okay. And who was that? 13 A. I don't know at the time. 14 Q. Okay. You mean you knew the person, 15 but you didn't know the person's name, or you 16 can't remember now who the head cashier would 17 have been? 18 A. I don't know who it would have been at 19 the time. 20 Q. How do you know as you sit here now 21 that your head cashier would have been in a 22 position near you? 23 A. They always stand at the corner usually 24 right behind register 9 because they have to 27</p>
<p>1 it's the register all the way to the right if 2 you're exiting the building. 3 Q. Okay. All right. I have in front of 4 me Answers to Interrogatories. You don't have 5 any documents in front of you other than your 6 statement, do you? 7 A. No. 8 Q. Do you even have your statement in 9 front of you right now? 10 A. I do not. 11 Q. Okay, that's fine. I'm not going to 12 mark these, because I don't -- I understand that 13 you -- you told me earlier that you never 14 reviewed any documents in connection with this 15 incident, so I'm just going to ask you a 16 question -- for counsel's purposes, I'm 17 referring to Answers to Interrogatories. 18 There was an answer given to Question 19 No. 2 in which the question was to identify all 20 people who were at the scene where this incident 21 happened either at the time of the incident, 22 immediately before or immediately after the 23 incident. 24 Did anybody ever ask you to identify 26</p>	<p>1 stand there to look for -- to see if cashiers 2 need help, or for a theft, or for incidents. 3 Q. Okay. And do you have in your mind a 4 list of who it might have been, in other words, 5 who worked around that time? 6 A. Yes. 7 Q. Okay. Give me some names of people who 8 it might have been. 9 A. So it might have been a woman named 10 Lubna Ismail. 11 Q. Okay. 12 A. It might have been a man named Travis 13 Scott. 14 Q. Okay. Anyone else? 15 A. I believe also Cindy Allan, I believe 16 her name is. 17 Q. Okay. Anyone else? 18 A. That's -- that's all I remember. 19 Q. Okay. And presumably there would be 20 some kind of personnel records that would 21 indicate which head cashier would be working the 22 same shift as you that morning? 23 A. Correct. 24 Q. Okay. Let's continue with the 28</p>



<p>1 question, and that is who would have been in the</p> <p>2 position to see or possibly see this incident.</p> <p>3 So you named one, and that would have</p> <p>4 been the head cashier. who else?</p> <p>5 A. Other cashiers.</p> <p>6 Q. Anyone that you can think of?</p> <p>7 A. No.</p> <p>8 Q. Okay. And no one ever asked you to</p> <p>9 identify anybody that might have seen this, is</p> <p>10 that a fair statement?</p> <p>11 A. Correct.</p> <p>12 Q. What about people who worked at the</p> <p>13 exit door?</p> <p>14 A. We don't -- we don't have people that</p> <p>15 work at the exit door.</p> <p>16 Q. All right. I'm going to go through a</p> <p>17 couple of names that were identified by Lowe's,</p> <p>18 and I'm going to ask you if you know who they</p> <p>19 are and help me fill in some blanks here.</p> <p>20 Do you know somebody named Jody Rankin?</p> <p>21 A. I do.</p> <p>22 Q. Who is Jody Rankin?</p> <p>23 A. At the time, he was the store manager.</p> <p>24 Q. And one of the questions I was going to</p> <p style="text-align: right;">29</p>	<p>1 know who that is?</p> <p>2 A. Yes.</p> <p>3 Q. Who's Eileen Parks?</p> <p>4 A. At the time she was the loss</p> <p>5 prevention.</p> <p>6 Q. Is it your understanding that she was</p> <p>7 loss prevention for that store, or did she have</p> <p>8 a region that she covered; how did that work?</p> <p>9 A. She was the loss prevention for that</p> <p>10 store.</p> <p>11 Q. Does she still work for Lowe's as far</p> <p>12 as you know?</p> <p>13 A. As far as I know.</p> <p>14 Q. Okay. And what does she do now?</p> <p>15 A. I'm sorry, I thought you said she still</p> <p>16 works for Lowe's.</p> <p>17 Q. Right. So is she still in the same</p> <p>18 position at Lowe's as loss prevention?</p> <p>19 A. Not at our store, she's at a different</p> <p>20 location.</p> <p>21 Q. Okay. Do you know which location?</p> <p>22 A. I do not.</p> <p>23 Q. Can you describe her?</p> <p>24 A. She is a Caucasian woman, blond hair, I</p> <p style="text-align: right;">31</p>
<p>1 ask you is if that's a man or a woman; that's a</p> <p>2 man as I understand, is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. And he no longer works there?</p> <p>5 A. Correct.</p> <p>6 Q. Can you describe him for me physically,</p> <p>7 white, black...</p> <p>8 A. Tall, Caucasian, blond hair.</p> <p>9 Q. Okay. And do you know where he works</p> <p>10 now?</p> <p>11 A. I do not.</p> <p>12 Q. Do you have any contact information for</p> <p>13 him?</p> <p>14 A. I do not.</p> <p>15 Q. You don't keep in touch with him?</p> <p>16 A. No.</p> <p>17 Q. Have you ever discussed this incident</p> <p>18 with him?</p> <p>19 A. No.</p> <p>20 Q. Do you know if he was there working the</p> <p>21 day that this incident occurred?</p> <p>22 A. I do not.</p> <p>23 Q. Next person I want to ask you about is</p> <p>24 someone by the name of Eileen Parks. Do you</p> <p style="text-align: right;">30</p>	<p>1 think she's about 5'4".</p> <p>2 Q. Okay. And do you stay in touch with</p> <p>3 Ms. Parks?</p> <p>4 A. No.</p> <p>5 Q. Do you know if Ms. Parks was at the</p> <p>6 store when this incident occurred?</p> <p>7 A. I do not know.</p> <p>8 Q. Did you ever discuss this with her?</p> <p>9 A. No.</p> <p>10 Q. Did anybody come to the register where</p> <p>11 you were working to discuss with you following</p> <p>12 the incident?</p> <p>13 A. I do remember later on my manager on</p> <p>14 duty coming to me and asking me to write an</p> <p>15 incident report.</p> <p>16 Q. Okay. Would that have been later on</p> <p>17 the same day?</p> <p>18 A. I don't remember.</p> <p>19 Q. Okay. Did anybody ever tell you that</p> <p>20 they saw what happened?</p> <p>21 A. No.</p> <p>22 MR. TEICH: Okay. All right. Why don't we</p> <p>23 mark -- Ms. Court Reporter, we're going to mark</p> <p>24 as Deposition Exhibit 1 the handwritten</p> <p style="text-align: right;">32</p>



<p>1 statement of Ms. Martinez dated June 25, 2016. 2 (whereupon, MARTINEZ Deposition 3 Exhibit No. 1 was marked for 4 identification.) 5 BY MR. TEICH: 6 Q. Ms. Martinez, you have a copy of that 7 in front of you, is that right? 8 A. I do not, no. 9 Q. I'm sorry, I thought you said you did. 10 Okay. Then when the time comes, if necessary, 11 I'll put it up on the screen. 12 Margie, you have a copy, do you not? 13 THE REPORTER: No. 14 MR. TEICH: A set of exhibits was e-mailed to 15 you guys yesterday by Rosetta. Okay. 16 Counsel, do you have an objection if we 17 mark these exhibits officially later on and if I 18 just show them to your witness on the screen in 19 the meantime? 20 MR. PAYNE: Yeah, that's fine. 21 BY MR. TEICH: 22 Q. Okay. Give me a moment while I pull 23 this up. I realize you're working off of your 24 phone and the screen is not real big, but,</p> <p style="text-align: right;">33</p>	<p>1 Given that it's dated 6/25/16, is it 2 your understanding that you would have written 3 it the same day that this incident occurred? 4 A. Yes. 5 Q. Do you remember what hours you would 6 have worked that day, and again, the incident 7 occurred at 9:35 a.m., if that helps. 8 A. I don't remember. 9 Q. Did you have a regular shift that you 10 were working back then? 11 A. I did not. 12 Q. What were -- were there -- even if you 13 didn't have a regular shift, were there regular 14 shifts established; in other words, 6:00 to noon 15 or something like that? 16 A. 6:00 a.m. to 3:00 p.m. 17 Q. Okay. So if you were working at the 18 register at 9:35 a.m., is it likely that you 19 were working a shift that began at 6:00 and 20 ended at 3:00? 21 A. Yes. 22 Q. Do you know one way or the other 23 whether you would have completed this report 24 some time before you finished your shift at</p> <p style="text-align: right;">35</p>
<p>1 Ms. Martinez -- 2 A. I see it. 3 Q. Maybe that's better. Can you see that? 4 A. Hold on. I can see part of it, yes. 5 Q. Okay. I'm going to go to a full screen 6 so you can see the whole thing. 7 A. Okay. 8 Q. All right. And for the record, I'm 9 showing you a single page statement with the 10 date 6/25/16 in the top right corner, and it's 11 handwritten. And I'm going to ask you to just 12 identify whether this is the statement that you 13 told me earlier that you wrote some time after 14 the incident. 15 A. Yes. 16 Q. Okay. And is all of the handwriting on 17 this page yours? 18 A. It is. 19 Q. And that's your signature at the 20 bottom? 21 A. It is. 22 Q. All right. I'm going to try to get a 23 little bit more detail about when you wrote 24 this.</p> <p style="text-align: right;">34</p>	<p>1 3:00 p.m. that day? 2 A. Yes. 3 Q. And the answer is yes, you would have 4 completed it before 3:00 p.m. that day? 5 A. Yes. 6 Q. In other words, you weren't called back 7 to Lowe's to do -- 8 THE REPORTER: Mike, you went out there, I'm 9 sorry. 10 BY MR. TEICH: 11 Q. I said: In other words you were not 12 called back to Lowe's to complete this after 13 your shift ended, nothing like that occurred, is 14 that correct? 15 A. No. 16 Q. I'm correct about that? 17 A. You are correct, yes. 18 Q. Now, I don't know if seeing this 19 refreshes your recollection at all, but I'm 20 going to ask the question again: Do you recall 21 who it was that asked you to write this? 22 A. I do not. 23 Q. Do you remember where you were when you 24 wrote this; in other words, were you in an</p> <p style="text-align: right;">36</p>



<p>1 office, were you at your register, were you in a 2 break room?</p> <p>3 A. Yes, it was the install office.</p> <p>4 Q. And what is the install office?</p> <p>5 A. The office -- the install office is the 6 office located right behind register 9.</p> <p>7 Q. What do you recall about the 8 circumstances that led up to this; did you 9 volunteer to write out a statement, did somebody 10 tell you that you needed to write a statement, 11 how did that work?</p> <p>12 A. I was told that the gentleman had -- 13 well, he had an incident, so I knew that I had 14 to write a statement. I was just waiting until 15 they told me I needed to sit down and write it.</p> <p>16 Q. Okay. I'm not sure I understood that. 17 Are you saying that you knew in your 18 mind that you were going to need to write a 19 statement because an incident occurred or 20 somebody told you that?</p> <p>21 A. Yes. Both.</p> <p>22 Q. Okay. So once this occurred, you knew 23 that you were going to have to write a 24 statement?</p> <p style="text-align: right;">37</p>	<p>1 have known about the incident?</p> <p>2 A. I don't remember.</p> <p>3 Q. If I -- I'm going to zoom out a little 4 bit and make it a little easier for you to see 5 the words, and I'm going to ask you, if you 6 could, to just read the first couple of lines 7 and then I'll stop you.</p> <p>8 A. Hold on, I'm sorry, I've got to zoom 9 out a little bit. Okay.</p> <p>10 Customer came to my register 9 at 11 9:35 a.m. I was putting the item back into the 12 cart, down rod. One of them fell through the 13 cart holes.</p> <p>14 Q. All right. I'm going to stop you 15 there.</p> <p>16 So we already talked about whether this 17 was a down rod or rebar or something else?</p> <p>18 A. Yeah.</p> <p>19 Q. And you've already answered those 20 questions. I'm going to ask you about the one 21 of them part. Is it your understanding that 22 there were multiple rods?</p> <p>23 A. Three.</p> <p>24 Q. That's your memory right now, that's</p> <p style="text-align: right;">39</p>
<p>1 A. Yes.</p> <p>2 Q. Was it your understanding that you were 3 the one that reported this incident to 4 management, or did Mr. Narsimhan or someone else 5 report it?</p> <p>6 A. I don't remember who reported it.</p> <p>7 Q. Okay. Do you remember having a 8 conversation with anybody at Lowe's that day 9 about this incident?</p> <p>10 A. Just the person who pulled me aside to 11 write the incident.</p> <p>12 Q. And you don't remember who that person 13 was?</p> <p>14 A. I do not.</p> <p>15 Q. But do you remember any details about 16 that conversation?</p> <p>17 A. I do not.</p> <p>18 Q. Okay. So you said that someone pulled 19 you aside saying you needed to write the report. 20 So that would indicate to me that whoever 21 approached you knew about this incident already, 22 is that a fair characterization?</p> <p>23 A. Yes.</p> <p>24 Q. And do you know how that person would</p> <p style="text-align: right;">38</p>	<p>1 your best guess?</p> <p>2 A. I believe there was three.</p> <p>3 Q. Okay. And I'll ask you again: Do you 4 remember what else may have been in the cart?</p> <p>5 A. I don't remember what else was in the 6 cart.</p> <p>7 Q. Okay. All right. Now you wrote one of 8 them fell through the cart holes. So tell me 9 what you mean by that.</p> <p>10 A. So I -- hold on. Let me -- let me see. 11 One of them fell through the cart holes. One of 12 the rods fell through the cart holes.</p> <p>13 Q. When you say --</p> <p>14 A. So --</p> <p>15 Q. I'm sorry, I didn't mean to interrupt 16 you. Go ahead.</p> <p>17 A. I'm sorry. The cart he was using was a 18 red grocery -- well, our red push carts, which 19 look like regular grocery carts with holes all 20 over them.</p> <p>21 Q. And the holes that you're describing, 22 these are normal, these aren't defects, right?</p> <p>23 A. These are normal, yes.</p> <p>24 Q. That's the way the cart is designed?</p> <p style="text-align: right;">40</p>



<p>1 A. Yes.</p> <p>2 Q. So is it my understanding that the rod</p> <p>3 fell through the hole as you were placing it</p> <p>4 into the cart?</p> <p>5 A. Yes.</p> <p>6 Q. And you already told us you were the</p> <p>7 only one placing that into the cart, is that</p> <p>8 right?</p> <p>9 A. Correct.</p> <p>10 Q. So you placed the rod into the cart in</p> <p>11 a manner that allowed it to fall through the</p> <p>12 hole, is that a fair statement?</p> <p>13 A. Can you repeat that.</p> <p>14 Q. Yeah. You placed the rod into the cart</p> <p>15 in a manner that allowed it to fall through one</p> <p>16 of these holes, is that a fair statement?</p> <p>17 A. Can you --</p> <p>18 MR. PAYNE: I'll object to the form.</p> <p>19 MR. TEICH: You can still answer the</p> <p>20 question.</p> <p>21 THE WITNESS: Can you rephrase it.</p> <p>22 BY MR. TEICH:</p> <p>23 Q. What is it about the phrasing that you</p> <p>24 don't understand?</p> <p style="text-align: right;">41</p>	<p>1 A. Correct.</p> <p>2 Q. But you put that rod in that cart after</p> <p>3 you scanned it, right?</p> <p>4 A. I did.</p> <p>5 Q. And did you know as part of your</p> <p>6 training that the reason you don't put those</p> <p>7 rods in those carts is because it could fall</p> <p>8 through the holes and hurt somebody?</p> <p>9 A. Correct.</p> <p>10 Q. And you knew that at the time?</p> <p>11 A. Yes.</p> <p>12 Q. But you put the rod in the cart anyway,</p> <p>13 right?</p> <p>14 A. Yes.</p> <p>15 Q. Did Mr. Narsimhan do anything to cause</p> <p>16 his injury?</p> <p>17 A. No.</p> <p>18 Q. Now you wrote in your statement that</p> <p>19 you watched it fall -- I'm sorry, I'll let you</p> <p>20 read the next line, I don't want to</p> <p>21 mischaracterize it.</p> <p>22 Just read the next line, please,</p> <p>23 starting with: I watched it fall out.</p> <p>24 A. I watched it fall out and told him be</p> <p style="text-align: right;">43</p>
<p>1 A. When you said that I placed it in there</p> <p>2 for it to fall through the holes.</p> <p>3 Q. I think -- I'll repeat it, because I</p> <p>4 don't think that's what I said. I think what I</p> <p>5 said was: You placed the rod in the cart in a</p> <p>6 manner that allowed it to fall through the hole</p> <p>7 in the cart, true?</p> <p>8 A. Yes.</p> <p>9 Q. And this cart was the same as every</p> <p>10 other cart that's used at Lowe's; in other</p> <p>11 words, there was nothing defective, or strange,</p> <p>12 or unusual about it, is that a fair statement?</p> <p>13 A. That is correct.</p> <p>14 Q. When Mr. Narsimhan rolled that cart up</p> <p>15 to your cash register, was there anything wrong</p> <p>16 with the way the cart was loaded or with the way</p> <p>17 the rod was in the cart?</p> <p>18 A. Yes, those rods were not meant to be in</p> <p>19 those carts.</p> <p>20 Q. And did you tell him that?</p> <p>21 A. I do not remember.</p> <p>22 Q. But you knew that as part of your</p> <p>23 training that you're not supposed to put those</p> <p>24 rods in those carts?</p> <p style="text-align: right;">42</p>	<p>1 careful. He steps back as it's falling.</p> <p>2 Q. Okay. When you say you told him to be</p> <p>3 careful, I want you to explain that to me.</p> <p>4 Did you see the rod falling out of the</p> <p>5 cart?</p> <p>6 A. Yes.</p> <p>7 Q. At what point did you tell him to be</p> <p>8 careful, was it -- well, strike it.</p> <p>9 At what point did you tell him to be</p> <p>10 careful?</p> <p>11 A. As it was falling.</p> <p>12 Q. Not before you put it in?</p> <p>13 A. No.</p> <p>14 Q. You said you didn't see whether it hit</p> <p>15 him or not, is that a fair statement?</p> <p>16 A. I'm sorry, can you say that again.</p> <p>17 Q. Yeah. You told me earlier in the</p> <p>18 deposition that you did not see whether the rod</p> <p>19 hit him or not, is that a fair statement?</p> <p>20 A. Right.</p> <p>21 Q. I'm trying to get the timing down here,</p> <p>22 this is what I'm grappling with.</p> <p>23 So you saw the rod falling out of the</p> <p>24 cart, you told him to be careful. would you</p> <p style="text-align: right;">44</p>



<p>1 have told him to be careful before or after it 2 hit him, or do you not know. 3 A. While it was falling. 4 Q. And you've never had the opportunity to 5 see the video of this, is that right? 6 A. That is correct. 7 Q. All right. Go ahead and read the next 8 line for me, please. I scrolled up a little 9 bit. 10 A. Falling. I say sorry and ask if he is 11 okay. I did not see it him hit, so I figured 12 everything was okay. 13 Q. All right. So let me ask you about 14 that. 15 Did you see the rod hit the ground? 16 A. I don't believe so. 17 Q. Okay. At what point -- well, strike 18 that. 19 Was there a period of time after the 20 rod fell and before you saw Mr. Narsimhan on his 21 knee? 22 A. Can you repeat that. 23 Q. Sure. You say that you didn't see it 24 hit him so you figured everything was okay. And</p> <p style="text-align: right;">45</p>	<p>1 Q. Okay. So was there a time when you 2 looked at him after the rod fell and he looked 3 like he was okay, but then when you went back 4 and looked at him a second time, he was on his 5 knee? 6 A. Can you say that one more time. 7 Q. Sure. I'm just trying to get the 8 timing right here, and, you know, I'll ask you 9 an open-ended question, I'll let you use your 10 words to describe it as best you remember. 11 What was it that led you to believe he 12 was okay, but then when you turned around, you 13 saw he was on his knee? 14 A. Right. So I asked him if he was okay. 15 I don't remember if he said anything. When I 16 was able to turn back around, I did see that he 17 was kneeling down. 18 Q. So you're saying you asked him if he 19 was okay after the rod fell, but before you saw 20 him on his knee? 21 And again I know this is a long time 22 ago. I -- I'm not asking you to guess here. If 23 you remember, tell me; and if you don't, feel 24 free to tell me that you don't recall.</p> <p style="text-align: right;">47</p>
<p>1 I'm trying to figure out like at what point you 2 figured everything was okay. 3 Was there a period of time after the 4 rod fell that you saw Mr. Narsimhan and he 5 appeared to be okay to you? 6 A. I -- I don't remember. 7 Q. Okay. So just tell me as best you 8 remember what it was that made you figure 9 everything was okay. 10 A. I asked -- I asked him directly when I 11 was at the register. 12 Q. Okay. Did you ask him that before or 13 after you saw him on his knee? 14 A. After. 15 Q. Okay. So after he went on his knee and 16 got back up, you asked him if he was okay? 17 A. Yes. 18 Q. I'll get to that in a minute. 19 In your statement you said you didn't 20 see it hit him so I figured everything was okay. 21 But then in the next line you say, and correct 22 me if I'm reading this wrong, you say: As I 23 turned my head back, he's on his knee. 24 A. Yes.</p> <p style="text-align: right;">46</p>	<p>1 A. I don't recall exact, no. 2 Q. As you remember this incident now as 3 you sit here today, would it be correct to say 4 that you don't know one way or the other whether 5 the rod hit him? 6 A. Correct. 7 Q. If he says that it hit him, you can't 8 dispute that, is that true? 9 A. That is true. 10 Q. All right. So you wrote: As I turned 11 my head back, he's on his knee. I put it back 12 in the cart. I was confused about how he was 13 hurt. 14 Did I read that correctly? 15 A. Yes. 16 Q. Tell me what you were confused about. 17 A. Because I didn't see it hit him. 18 Q. Okay. Anything else? 19 A. No. 20 Q. You don't have any opinion as to 21 whether it could have injured him if it did hit 22 him, is that a fair statement? 23 A. Correct. 24 Q. By the way, I didn't ask you this</p> <p style="text-align: right;">48</p>



<p>1 before, I should ask you now: To the best of 2 your ability now, and I realize it's several 3 years later, can you describe the rod for us in 4 terms of its length, its width, how heavy it 5 was? 6 A. I know it was brown and long. 7 weight-wise, I wouldn't know. They are kind of 8 heavy. 9 Q. Okay. And you've already said it was 10 metal, is that correct? 11 A. Yes. 12 Q. Do you remember what kind of shoes 13 Mr. Narsimhan was wearing? 14 A. I do not. 15 Q. Okay. And since you never saw whether 16 it hit him or not, you can't express any opinion 17 as to what part of his body it hit, true? 18 A. Correct. 19 Q. Whether it was his foot, or his ankle, 20 or his leg, you don't know any of that, is that 21 right? 22 A. I do not. 23 Q. I think the next line is, and correct 24 me if I'm wrong, he finishes checking out and</p> <p style="text-align: right;">49</p>	<p>1 down rod. 2 Did I read that correctly? 3 A. Yes. 4 Q. So first of all that tells us that 5 whoever the head cashier was was a man, is that 6 right? 7 A. Yes. 8 Q. Okay. And whoever it was told you that 9 he did not see Mr. Narsimhan get hit with the 10 down rod, is that correct? 11 A. Yes. 12 Q. Do you remember whether he was saying 13 he saw the incident but didn't see him get hit, 14 was he saying he didn't see the incident at all, 15 or did he mean something else? 16 A. I don't know. 17 Q. Is there any person that you know of 18 who can tell us that they saw the incident and 19 can tell us one way or the other whether that 20 rod hit his foot? 21 A. I don't know. 22 Q. Okay. All right. Now I want to go 23 back to the incident, and I want to talk about 24 everything you remember about your interactions</p> <p style="text-align: right;">51</p>
<p>1 leaves. And then did you write okay? 2 A. Yes. 3 Q. What does that mean? 4 A. I do not know. He leaves okay. 5 Q. Next line: I ask my head cashier if I 6 was seeing things, and I think there's a 7 question mark there, is that correct? 8 A. Yes. 9 Q. And again, is this the same head 10 cashier that you referred us to earlier? 11 A. Yes, that was standing a little behind 12 me. 13 Q. And you gave us a few names of who it 14 might have been? 15 A. Correct. 16 Q. As you read this statement now, does it 17 refresh your recollection at all as to who that 18 was? 19 A. No. 20 Q. Whoever it was, did the head cashier 21 tell you that he or she saw the incident? 22 A. I don't remember. I don't remember. 23 Q. Okay. Well, your next line in here is: 24 He agreed he did not see him get hit with the</p> <p style="text-align: right;">50</p>	<p>1 and conversations with Mr. Narsimhan. 2 So he pulls up to your cash register 3 with his cart. Do you remember any conversation 4 that you had with him before this incident 5 occurred? 6 A. I do not. 7 Q. Is the first thing you remember saying 8 to him: Be careful? 9 A. No. 10 Q. What is the first thing you remember 11 saying to him? 12 A. It would have been hello. 13 Q. Okay. So again, I'm not -- I'm not 14 suggesting that you didn't talk to him. I'm 15 asking what you remember about the conversation. 16 A. Oh, I don't remember our first 17 conversation. 18 Q. Okay. So ordinarily, as with any 19 customer, you would have said hello, you would 20 have exchanged some pleasantries, how are you, 21 that kind of thing? 22 A. Yes. 23 Q. Okay. And you probably did this with 24 this customer as well, right?</p> <p style="text-align: right;">52</p>



<p>1 A. Yes.</p> <p>2 Q. You just don't remember the details, is</p> <p>3 that fair?</p> <p>4 A. That is correct.</p> <p>5 Q. I know from your report that you say</p> <p>6 that you told him to be careful at some point</p> <p>7 during the incident, you've already described</p> <p>8 that, is that right?</p> <p>9 A. That is correct.</p> <p>10 Q. What I'm asking is: Do you recall</p> <p>11 anything specific that you and he talked about</p> <p>12 prior to that moment?</p> <p>13 A. No.</p> <p>14 Q. Okay. What can you tell me about any</p> <p>15 conversation you recall having with him after</p> <p>16 saying be careful?</p> <p>17 A. Other than asking him if he was okay,</p> <p>18 that was it.</p> <p>19 Q. Okay. Now you told us earlier that you</p> <p>20 asked if he was -- if he was okay after you</p> <p>21 already came back around to your register, is</p> <p>22 that right?</p> <p>23 A. Yes.</p> <p>24 Q. And he was already standing up again by</p> <p style="text-align: right;">53</p>	<p>1 might have said to you?</p> <p>2 A. I don't.</p> <p>3 Q. You don't remember if he told you yes,</p> <p>4 I'm okay, or no, my foot hurts, or anything</p> <p>5 along those lines, you don't recall what he</p> <p>6 said?</p> <p>7 A. I don't recall what he said, no.</p> <p>8 Q. Okay. Have you ever spoken with him</p> <p>9 again since that moment in time after he</p> <p>10 finished checking out and walked away?</p> <p>11 A. No.</p> <p>12 Q. Have you ever seen him again since</p> <p>13 then?</p> <p>14 A. No.</p> <p>15 Q. Never seen him in the store or you've</p> <p>16 never seen him at all, is that a fair statement?</p> <p>17 A. No, that's a fair statement.</p> <p>18 Q. Do you remember whether you've ever</p> <p>19 seen him or interacted with him at any time</p> <p>20 before this incident?</p> <p>21 A. No.</p> <p>22 Q. Now I know from the video that I had an</p> <p>23 opportunity to watch that there was another</p> <p>24 customer that came up to the register</p> <p style="text-align: right;">55</p>
<p>1 that point, is that right?</p> <p>2 A. Yes.</p> <p>3 Q. Did you see him at any time while he</p> <p>4 was down on his knee?</p> <p>5 A. Yes.</p> <p>6 Q. Did you talk to him at all while he was</p> <p>7 down on his knee?</p> <p>8 A. I don't remember.</p> <p>9 Q. When you came back around to your</p> <p>10 register and asked him if he was okay, what do</p> <p>11 you remember him telling you?</p> <p>12 A. I don't remember him saying anything.</p> <p>13 Q. Was there any other conversation that</p> <p>14 you recall having with him as he was checking</p> <p>15 out and before he walked away from your cash</p> <p>16 register?</p> <p>17 A. None.</p> <p>18 Q. So the only things you recall are you</p> <p>19 told him to be careful while the rod was</p> <p>20 falling, and then you recall asking him if he</p> <p>21 was okay while you were standing at your cash</p> <p>22 register, is that a fair statement?</p> <p>23 A. Yes.</p> <p>24 Q. And you don't remember anything he</p> <p style="text-align: right;">54</p>	<p>1 immediately after Mr. Narsimhan.</p> <p>2 Do you have any recollection of that?</p> <p>3 A. I do not.</p> <p>4 Q. Do you have any recollection of having</p> <p>5 any conversation with the next customer in line</p> <p>6 about what had just occurred?</p> <p>7 A. I do not.</p> <p>8 Q. Okay. I know from watching the video</p> <p>9 that after that customer that followed</p> <p>10 Mr. Narsimhan, you walked away from your</p> <p>11 register; do you remember any of that?</p> <p>12 A. I do not.</p> <p>13 Q. Do you remember who you spoke with when</p> <p>14 you walked away from your register within the</p> <p>15 first few minutes of that occurring?</p> <p>16 A. No, I do not.</p> <p>17 Q. You told me that -- strike that.</p> <p>18 Remind me, the person who asked you to</p> <p>19 write the report, did you say it was the store</p> <p>20 manager that was working that day?</p> <p>21 A. No, a manager on duty.</p> <p>22 Q. What's the difference between a store</p> <p>23 manager and a manager on duty?</p> <p>24 A. A manager on duty is a manager who is</p> <p style="text-align: right;">56</p>



<p>1 being the manager for that time of period, and</p> <p>2 the store manager is -- he's the store manager.</p> <p>3 He doesn't typically do stuff like that.</p> <p>4 Q. Did I ask you for names of people who</p> <p>5 might have been the ones that asked you to write</p> <p>6 that report? I don't think I did.</p> <p>7 Can you tell me some names of people</p> <p>8 who might have been the ones that asked you to</p> <p>9 write that report?</p> <p>10 A. It might have been -- I don't</p> <p>11 believe -- I can't remember because all those</p> <p>12 managers are gone.</p> <p>13 Q. Okay. Do you remember if it was a man</p> <p>14 or a woman?</p> <p>15 A. I do not.</p> <p>16 Q. But it was a manager on duty that</p> <p>17 would -- that would have been the title?</p> <p>18 A. Yes.</p> <p>19 Q. Is there a particular department,</p> <p>20 manager on duty for a particular department, or</p> <p>21 is it for the whole store?</p> <p>22 A. For the whole store.</p> <p>23 Q. So if I wanted to get personnel records</p> <p>24 to find out who it would have been, I would just</p> <p style="text-align: right;">57</p>	<p>1 either different from or in addition to what you</p> <p>2 wrote in your statement?</p> <p>3 A. No.</p> <p>4 Q. Did you have any other conversations</p> <p>5 with that person throughout the rest of your</p> <p>6 shift that day about it?</p> <p>7 A. No.</p> <p>8 Q. Did you discuss this incident with any</p> <p>9 other people that day?</p> <p>10 A. No.</p> <p>11 Q. Did you discuss this incident with</p> <p>12 anybody other than your attorney any time since</p> <p>13 that day?</p> <p>14 A. No.</p> <p>15 Q. So as you sit here today, the first</p> <p>16 time you've had any conversation with anybody</p> <p>17 other than your lawyer about this incident is on</p> <p>18 the day it happened when you discussed it with</p> <p>19 your manager on duty, is that what you're</p> <p>20 telling me?</p> <p>21 A. That is correct.</p> <p>22 Q. Were there any other forms that were</p> <p>23 filled out as part of this incident that you</p> <p>24 know of, filled out by you or anybody else?</p> <p style="text-align: right;">59</p>
<p>1 take a look and see who the manager on duty was</p> <p>2 for that shift?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. So obviously you had a</p> <p>5 conversation with that person because that</p> <p>6 person is the one that pulled you aside and</p> <p>7 asked you to write a report, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Do you remember anything about the</p> <p>10 conversation you had with that person?</p> <p>11 A. I do not.</p> <p>12 Q. Do you remember that person asking you</p> <p>13 any questions, or any details, or any</p> <p>14 particulars about what occurred?</p> <p>15 A. No.</p> <p>16 Q. Do you remember that person telling you</p> <p>17 whether the customer had reported the incident,</p> <p>18 or made a complaint, or anything along those</p> <p>19 lines?</p> <p>20 A. No.</p> <p>21 Q. Do you remember what you would have</p> <p>22 told that person about what had occurred?</p> <p>23 A. What I wrote in my statement.</p> <p>24 Q. Okay. Do you remember anything else</p> <p style="text-align: right;">58</p>	<p>1 A. Not that I know of, just my statement.</p> <p>2 Q. As part of your training at Lowe's or</p> <p>3 as part of the experience you've had in the</p> <p>4 years working there, are you familiar with any</p> <p>5 sort of formalized accident or incident</p> <p>6 reporting forms that are used when a customer is</p> <p>7 injured?</p> <p>8 A. I don't recall.</p> <p>9 Q. Have you ever been involved in any</p> <p>10 other incidents before or after this one in</p> <p>11 which a customer was injured or claimed to have</p> <p>12 been injured, and when I say involved I mean as</p> <p>13 a witness, as a person on duty, anything along</p> <p>14 those lines?</p> <p>15 A. No.</p> <p>16 Q. Have you ever been required to fill out</p> <p>17 any kind of an accident or incident report at</p> <p>18 Lowe's?</p> <p>19 A. No.</p> <p>20 Q. Now one of the disclosures that Lowe's</p> <p>21 provided to us regarding what your testimony at</p> <p>22 trial would be states that you would be</p> <p>23 testifying to rules, procedures, practices of</p> <p>24 Lowe's, so I'm going to ask you some questions</p> <p style="text-align: right;">60</p>



<p>1 about it.</p> <p>2 what rules are in place at Lowe's that</p> <p>3 you are familiar with that would apply to this</p> <p>4 type of situation?</p> <p>5 A. I don't know off the top of my head.</p> <p>6 Q. Okay. Are there rules that you know of</p> <p>7 regarding how you're supposed to load items into</p> <p>8 a cart as a cashier?</p> <p>9 A. Can you repeat that.</p> <p>10 Q. Sure. Does -- does Lowe's have any</p> <p>11 rules in place that you're aware of that govern</p> <p>12 how you're supposed to load items into a cart as</p> <p>13 a cashier, not as a customer?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Are those rules published in</p> <p>16 some kind of a handbook, or is it training</p> <p>17 materials or memos, where do those rules exist?</p> <p>18 A. Training videos.</p> <p>19 Q. Okay. And those training videos, how</p> <p>20 do they apply to this situation?</p> <p>21 A. So the videos don't -- the videos don't</p> <p>22 show when wrong materials are in wrong carts.</p> <p>23 They just show us how to place certain materials</p> <p>24 in the correct carts.</p> <p style="text-align: right;">61</p>	<p>1 training videos, or in any other rules that</p> <p>2 you're familiar with, has Lowe's told you that</p> <p>3 when you are placing rods like the one that</p> <p>4 Mr. Narsimhan was purchasing, you should put</p> <p>5 them in an H cart, not in the type of shopping</p> <p>6 cart he was using?</p> <p>7 A. No.</p> <p>8 Q. Was it your understanding that you were</p> <p>9 violating any company rules when you did that?</p> <p>10 A. No.</p> <p>11 Q. I'm going to ask you the same questions</p> <p>12 but I'm going to use the word procedures and</p> <p>13 practices instead of rules, because that's how</p> <p>14 the -- your testimony was described to me.</p> <p>15 Are you familiar with any procedures or</p> <p>16 practices at Lowe's that govern this issue?</p> <p>17 A. Can you repeat that.</p> <p>18 Q. Yeah. Are you familiar with any</p> <p>19 procedures or practices at Lowe's that you were</p> <p>20 trained on or instructed on with regard to how</p> <p>21 to properly load rods of this type into a cart?</p> <p>22 A. We have videos.</p> <p>23 Q. Same thing that you already told me</p> <p>24 about?</p> <p style="text-align: right;">63</p>
<p>1 Q. Okay.</p> <p>2 A. As far as -- so the videos don't show</p> <p>3 if customers bring the wrong materials for the</p> <p>4 wrong carts, they just show us if they were to</p> <p>5 bring the correct materials for the correct</p> <p>6 cart, is that -- did I say that better?</p> <p>7 Q. I think I understood what you meant,</p> <p>8 yes, thank you.</p> <p>9 A. Okay.</p> <p>10 Q. Was there a correct type of cart that</p> <p>11 was supposed to be used for rods like the one</p> <p>12 involved in this incident?</p> <p>13 A. Yes.</p> <p>14 Q. What kind of cart is that?</p> <p>15 A. They are called H carts.</p> <p>16 Q. And what's the difference between an H</p> <p>17 cart and the type of cart that Mr. Narsimhan was</p> <p>18 using?</p> <p>19 A. So an H cart is kind of like a flatbed</p> <p>20 cart, but it has four rails with two small rails</p> <p>21 on each side. So any sort of long PVC, long</p> <p>22 piping, long lumber, anything long and/or heavy</p> <p>23 goes on those carts.</p> <p>24 Q. As part of your training, or in the</p> <p style="text-align: right;">62</p>	<p>1 A. Yes.</p> <p>2 Q. Did you receive any kind of a reprimand</p> <p>3 or discipline or anything from this incident?</p> <p>4 A. No.</p> <p>5 Q. Do you know if -- strike that.</p> <p>6 Did you change any of your personal</p> <p>7 procedures or practices after this incident?</p> <p>8 A. I did.</p> <p>9 Q. How so?</p> <p>10 A. I made sure if customers came up with</p> <p>11 the wrong materials in their carts, I would take</p> <p>12 them out of their carts and keep them out of</p> <p>13 their carts and ask them if we could load them</p> <p>14 for them.</p> <p>15 Q. Okay. And when you say load them for</p> <p>16 them, you would have put them in a different</p> <p>17 type of cart?</p> <p>18 A. I would have put them in a different</p> <p>19 cart or asked a floor associate to carry them</p> <p>20 themselves and load them for the customer.</p> <p>21 Q. Okay. And that's to avoid any further</p> <p>22 injuries to customers, is that right?</p> <p>23 A. Correct.</p> <p>24 Q. Do you know whether the store changed</p> <p style="text-align: right;">64</p>



<p>1 any of its policies and procedures following 2 this incident?</p> <p>3 A. I do not know.</p> <p>4 Q. Was there any kind of a company wide or 5 store wide memo, announcement, discussion that 6 resulted from this incident?</p> <p>7 A. I do not know.</p> <p>8 Q. Does Lowe's provide you, as a cashier, 9 with ongoing training?</p> <p>10 A. Yes.</p> <p>11 Q. What form does that training take?</p> <p>12 A. On the computer.</p> <p>13 Q. How often do you do that?</p> <p>14 A. Very often.</p> <p>15 Q. Weekly, monthly?</p> <p>16 A. There's probably new training every 17 couple of weeks, every couple of months.</p> <p>18 Q. And is that training primarily safety 19 related or does it vary, sometimes safety, 20 sometimes administrative.</p> <p>21 A. Sometimes safety, sometimes 22 administrative.</p> <p>23 Q. How often do you do safety training, 24 would you say?</p> <p style="text-align: right;">65</p>	<p>1 MR. PAYNE: I'm sorry, I had an interference. 2 I didn't hear that question at all.</p> <p>3 MR. TEICH: Yeah, I stopped, because I heard 4 the interference as well. So I'll start over.</p> <p>5 BY MR. TEICH:</p> <p>6 Q. Is it your understanding that if that 7 had been in place at the time of this incident, 8 in other words if there had been someone in the 9 aisle, then perhaps they would have shown what 10 the proper cart was to use for this rod?</p> <p>11 A. Yes.</p> <p>12 Q. The changes that you made to your 13 personal way of doing things, you already told 14 us about that, you said now you do things a 15 little bit differently. You could have done 16 that at the time, is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. There's nothing preventing you from 19 getting -- or having somebody get a different 20 cart or loading it differently, is that right?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. Just to recap, I think you have 23 already shared with us all of the conversations 24 you've ever had with Mr. Narsimhan at any time,</p> <p style="text-align: right;">67</p>
<p>1 A. So computer safety training, maybe once 2 a month. We do have this new app safety 3 training, that gets done once a week.</p> <p>4 Q. And since this incident occurred, do 5 you recall having any safety training that would 6 impact this type of incident either with regard 7 to selection of carts, or proper loading of 8 carts, or that kind of thing?</p> <p>9 A. Can you repeat that.</p> <p>10 Q. Sure. I'm asking if any of the safety 11 training that you've received since this 12 incident would be relevant to this incident?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Tell me about that.</p> <p>15 A. So we've had some safety training with 16 having more associates in the specific aisles 17 for those materials that customers commonly 18 wouldn't know how to handle them or how to put 19 them on carts, to do it for them.</p> <p>20 Q. Anything else?</p> <p>21 A. No.</p> <p>22 Q. Is it your understanding that if 23 someone had been present in that aisle when 24 Mr. Narsimhan was --</p> <p style="text-align: right;">66</p>	<p>1 is that correct?</p> <p>2 A. That is correct.</p> <p>3 Q. To the best of your recollection, is 4 that right?</p> <p>5 A. Yes.</p> <p>6 Q. Are there any other observations that 7 you made of Mr. Narsimhan that you haven't 8 shared with us?</p> <p>9 A. No.</p> <p>10 Q. You shared with us all of the 11 conversations you've had with any other witness 12 or anyone else who may have information about 13 what happened here?</p> <p>14 A. I'm sorry, can you say that again.</p> <p>15 Q. Sure. Have you shared with us 16 everything you know or every conversation you've 17 had with anybody who might have seen this or 18 anybody who might have information about the 19 incident?</p> <p>20 A. Oh, yes.</p> <p>21 Q. All right. If I can, I'm going to show 22 you one of the videos here.</p> <p>23 (A video was viewed.)</p> <p>24</p> <p style="text-align: right;">68</p>



<p>1 BY MR. TEICH:</p> <p>2 Q. Okay. Can you see that?</p> <p>3 A. I can.</p> <p>4 Q. I've got it paused, and for the record,</p> <p>5 there were three videos that were disclosed to</p> <p>6 us by Lowe's.</p> <p>7 This video appears to be an overhead</p> <p>8 shot of the cashier and Mr. Narsimhan, would you</p> <p>9 agree with that?</p> <p>10 A. Yes.</p> <p>11 Q. And you've never seen that before, is</p> <p>12 that correct?</p> <p>13 A. Yes, that is correct.</p> <p>14 Q. I've got -- before I start, I got the</p> <p>15 video paused at the 1:03 mark, one minute, three</p> <p>16 second mark, and I'm just going to ask can you</p> <p>17 identify -- is that you that we see in the video</p> <p>18 wearing the -- a red vest?</p> <p>19 A. I cannot tell.</p> <p>20 Q. Okay. I'm going to play it a little</p> <p>21 bit, and if there comes a point where you can</p> <p>22 tell me if it is you or is not you, please let</p> <p>23 me know.</p> <p>24 (A video was viewed.)</p> <p style="text-align: right;">69</p>	<p>1 Q. Okay. Well, I'm going to represent for</p> <p>2 the record that this video was produced to us by</p> <p>3 Lowe's, and Lowe's represented that this is a</p> <p>4 video of the incident that we're going to</p> <p>5 describe.</p> <p>6 A. Okay.</p> <p>7 Q. So, Ms. Martinez, if at any point you</p> <p>8 believe that this does not show you and does not</p> <p>9 show the incident, please let me know, okay?</p> <p>10 A. Okay.</p> <p>11 Q. Otherwise I'm going to proceed under</p> <p>12 the assumption that is in fact you, that is</p> <p>13 Mr. Narsimhan, and that this was the incident,</p> <p>14 okay?</p> <p>15 A. Okay.</p> <p>16 MR. PAYNE: I am going to -- I'm stopping and</p> <p>17 skipping, although I've caught most questions</p> <p>18 and answers, but I'm unable to see any of this</p> <p>19 video from my laptop. I'm logging back in on my</p> <p>20 phone to see if that gives me a better</p> <p>21 connection. So I'm going to log out for a</p> <p>22 couple -- a minute and try and log back in.</p> <p>23 MR. TEICH: All right. We can wait.</p> <p>24</p> <p style="text-align: right;">71</p>
<p>1 BY MR. TEICH:</p> <p>2 Q. Do you recognize the gentleman that</p> <p>3 just walked up to the counter?</p> <p>4 A. Oh, yes, with the bars.</p> <p>5 Q. Okay. Is that Mr. Narsimhan?</p> <p>6 A. I don't know what he -- I don't</p> <p>7 remember what he looks like.</p> <p>8 Q. Okay. As far as you remember the</p> <p>9 incident, though, does this appear to be the</p> <p>10 person as best you can recall in terms of the</p> <p>11 way he looks, what he's wearing, what he's got</p> <p>12 in his cart, et cetera?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And from what you can see, does</p> <p>15 it appear to be register 9 at the Lowe's, Carol</p> <p>16 Stream?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And I'm going to back it up just</p> <p>19 a little bit.</p> <p>20 (A video was viewed.)</p> <p>21 BY MR. TEICH:</p> <p>22 Q. Again, you're telling us that you're</p> <p>23 not sure if that's you or not, is that correct?</p> <p>24 A. I -- right.</p> <p style="text-align: right;">70</p>	<p>1 (Whereupon, a discussion was had</p> <p>2 off the record.)</p> <p>3 MR. TEICH: Should I try the video? Do you</p> <p>4 want to see if it works any better now? Are you</p> <p>5 okay with the fact -- we can't hear you right</p> <p>6 now, or at least I can't. Okay. Does it seem</p> <p>7 to be working now Ron? Okay. All right.</p> <p>8 (A video was viewed.)</p> <p>9 BY MR. TEICH:</p> <p>10 Q. Ms. Martinez, I paused video at the</p> <p>11 1:13 mark, and it looks at this point like you</p> <p>12 have come out from behind your counter as you've</p> <p>13 told us you did, is that right?</p> <p>14 A. Yes.</p> <p>15 Q. And at this point, what would you be</p> <p>16 doing?</p> <p>17 A. Scanning.</p> <p>18 MR. TEICH: I think we lost Ron. For the</p> <p>19 record, it looks like Mr. Payne -- Mr. Payne's</p> <p>20 video feed has cut out, so I'm going to wait</p> <p>21 until he comes back. Okay. There he is.</p> <p>22 Are you back, Ron? Okay.</p> <p>23 (A video was viewed.)</p> <p>24</p> <p style="text-align: right;">72</p>



<p>1 BY MR. TEICH:</p> <p>2 Q. Seeing the video now -- by the way,</p> <p>3 Ms. Martinez, do you remember, did you notice</p> <p>4 anything unusual about Mr. Narsimhan before the</p> <p>5 incident, was he limping, did he appear to be</p> <p>6 injured, anything along those lines?</p> <p>7 A. No.</p> <p>8 Q. When you came out from behind the</p> <p>9 counter to do the scanning, is that something</p> <p>10 that you typically do or normally do?</p> <p>11 A. Yes.</p> <p>12 Q. That's a regular part of your job as</p> <p>13 cashier, is that right?</p> <p>14 A. Yes.</p> <p>15 Q. And do you have like a handheld scanner</p> <p>16 that you use?</p> <p>17 A. Yes.</p> <p>18 Q. Is that wireless or wired, how does</p> <p>19 that work?</p> <p>20 A. It's wireless.</p> <p>21 Q. When you came around the corner to do</p> <p>22 the scanning, did you have anything else in your</p> <p>23 hands or just the scanner?</p> <p>24 A. I don't remember.</p> <p style="text-align: right;">73</p>	<p>1 in one hand?</p> <p>2 A. Yes.</p> <p>3 Q. And at this part of the video you're</p> <p>4 scanning an item, right?</p> <p>5 A. Yes.</p> <p>6 (A video was viewed.)</p> <p>7 BY MR. TEICH:</p> <p>8 Q. Okay. I'm going to start at about 1:12</p> <p>9 on the video, and I'm going to play it.</p> <p>10 Do you know where you're standing at</p> <p>11 this time in relation to the cart?</p> <p>12 A. I'm in front of it.</p> <p>13 Q. Okay. It's like at the front end of</p> <p>14 the cart?</p> <p>15 A. Prob -- yeah.</p> <p>16 Q. Now the incident happens at around the</p> <p>17 1:26 mark, I'll tell you that right now before I</p> <p>18 play it. We're at about 1:20 now. Again, I</p> <p>19 know you're looking at this on your phone.</p> <p>20 Can you tell me where you would be</p> <p>21 looking as you're placing the rod back into the</p> <p>22 cart?</p> <p>23 A. Looking where he originally had it,</p> <p>24 which is like the corner.</p> <p style="text-align: right;">75</p>
<p>1 Q. Typically would you have anything else</p> <p>2 in your hands or just the scanner?</p> <p>3 A. If I needed to deactivate a security in</p> <p>4 a box, then yes.</p> <p>5 Q. And what kind of tool is that?</p> <p>6 A. It would be anything powered, anything</p> <p>7 electric.</p> <p>8 Q. Would it be -- I'm sorry, what kind of</p> <p>9 tool would you use?</p> <p>10 A. Oh, I would have to -- if you can see</p> <p>11 that light gray box on my register, on the flat</p> <p>12 part, I would have to run the item over it.</p> <p>13 Q. Okay. Otherwise, the only thing you'd</p> <p>14 have in your hand is a handheld scanner, is that</p> <p>15 right?</p> <p>16 A. Correct.</p> <p>17 Q. Can you describe that for us, what is</p> <p>18 it, is it like the size of a cell phone or</p> <p>19 how -- what is that like?</p> <p>20 A. It's a size of maybe three or four</p> <p>21 cellphones.</p> <p>22 Q. But you don't know?</p> <p>23 A. Four or five iPhones.</p> <p>24 Q. But it's a one hand device, you hold it</p> <p style="text-align: right;">74</p>	<p>1 Q. So when he walked up with that rod in</p> <p>2 the cart, describe for us how it was in the</p> <p>3 cart.</p> <p>4 A. So you can see that they're laying in</p> <p>5 the cart coming out of it, so they were at</p> <p>6 the -- I'm trying to explain it better.</p> <p>7 Q. Here, I backed up to about the 1:10</p> <p>8 mark on the cart.</p> <p>9 A. Yeah. So if you see where his hands</p> <p>10 are --</p> <p>11 Q. Uh-huh?</p> <p>12 A. -- and you follow it all the way down,</p> <p>13 that's typically where a child would sit, and</p> <p>14 you can either lift that up or have it flat. So</p> <p>15 when you have it flat, there is like a bar at</p> <p>16 the bottom that is kind of like where it was --</p> <p>17 where it would be sitting, is right there so it</p> <p>18 wouldn't fall through the hole, like just barely</p> <p>19 sitting there.</p> <p>20 Q. Okay. And he's got it with the rod</p> <p>21 sticking over the front edge of the cart and --</p> <p>22 A. Correct.</p> <p>23 Q. -- angled back toward the back of the</p> <p>24 cart, is that correct?</p> <p style="text-align: right;">76</p>



<p>1 A. Correct.</p> <p>2 Q. When you put the rod back in the cart</p> <p>3 after you scanned it, did you put it back in</p> <p>4 basically the same position or in a different</p> <p>5 position?</p> <p>6 A. The same, because -- the same.</p> <p>7 Q. You were about to say because, did I</p> <p>8 cut you off there?</p> <p>9 A. I'm sorry?</p> <p>10 Q. You were about to say because, and I</p> <p>11 don't know if I cut you off, and I just want to</p> <p>12 give you an opportunity to finish your answer.</p> <p>13 A. Oh, no. I put it the same.</p> <p>14 (A video was viewed.)</p> <p>15 BY MR. TEICH:</p> <p>16 Q. I'm playing it again. He walks off and</p> <p>17 right now you're scanning it, right?</p> <p>18 A. Yes.</p> <p>19 Q. And you told me that you're looking</p> <p>20 towards the corner where you're going to stick</p> <p>21 the end of the rod, right?</p> <p>22 A. Yes.</p> <p>23 Q. And I just stopped it at around 1:28.</p> <p>24 So let me back it up again. I'm going to play</p> <p style="text-align: right;">77</p>	<p>1 BY MR. TEICH:</p> <p>2 Q. So you come out from around the counter</p> <p>3 at around 1:11 or 1:12, right?</p> <p>4 A. Uh-huh.</p> <p>5 Q. Is that a yes?</p> <p>6 A. Yes.</p> <p>7 Q. Then it looks like you're putting the</p> <p>8 rod back in at around 1:25 or so, and I'll let</p> <p>9 you get there and see if you agree with me,</p> <p>10 okay?</p> <p>11 At what point in there do you think it</p> <p>12 was that you told him to be careful?</p> <p>13 A. When it was sliding through.</p> <p>14 Q. Okay. So would you say -- so here we</p> <p>15 are at like 1:21.</p> <p>16 A. Uh-huh.</p> <p>17 Q. It doesn't seem to be sliding through,</p> <p>18 does it?</p> <p>19 A. No, I don't see it sliding through.</p> <p>20 Q. 1:22, 23, 24, 25. Would you agree that</p> <p>21 it starts to slide through at around 1:25?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. So you think you told him to be</p> <p>24 careful around 1:25?</p> <p style="text-align: right;">79</p>
<p>1 it again from about 1:20, okay?</p> <p>2 A. Okay.</p> <p>3 (A video was viewed.)</p> <p>4 BY MR. TEICH:</p> <p>5 Q. Okay. Now this is the first time</p> <p>6 you've had an opportunity to see this since the</p> <p>7 day that it occurred, is that right?</p> <p>8 A. That is correct.</p> <p>9 Q. And it's the first time you've had an</p> <p>10 opportunity to see the video at all, is that</p> <p>11 correct?</p> <p>12 A. That is correct.</p> <p>13 Q. Is this generally consistent with what</p> <p>14 you remember happening?</p> <p>15 A. Yes.</p> <p>16 Q. All right. From where you were</p> <p>17 standing at the front of the cart when you were</p> <p>18 placing that rod in the cart, could you see the</p> <p>19 customer?</p> <p>20 A. I could see the customer.</p> <p>21 Q. And I'm going to go back again to the</p> <p>22 1:20 -- yeah, I'll go back again to where you</p> <p>23 come out from around the counter.</p> <p>24 (A video was viewed.)</p> <p style="text-align: right;">78</p>	<p>1 A. Yes.</p> <p>2 Q. Okay. And you agree that he's hit</p> <p>3 already by around 1:26, is that correct?</p> <p>4 A. I'm sorry. Yes.</p> <p>5 Q. Okay. Would you agree with me that</p> <p>6 from the video it appears that he goes down to</p> <p>7 his knee immediately when he gets hit?</p> <p>8 A. Can you play it again, I'm sorry.</p> <p>9 Q. Of course.</p> <p>10 (A video was viewed.)</p> <p>11 THE WITNESS: And what was the question?</p> <p>12 BY MR. TEICH:</p> <p>13 Q. Would you agree with me that from the</p> <p>14 video, and I'll play it again as many times as</p> <p>15 you'd like, from the video it appears that he</p> <p>16 goes down to his knee immediately once the rod</p> <p>17 hits him?</p> <p>18 A. Yes.</p> <p>19 Q. And he's already down on his knee</p> <p>20 before you pick up the rod, is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. So -- and again, I know this is</p> <p>23 a long time ago. I'm trying to figure out when</p> <p>24 it would have been that you saw him and thought</p> <p style="text-align: right;">80</p>



<p>1 he was okay, and then a period of time passed 2 and you turned your head and saw he was on his 3 knee. So at what point -- 4 A. Can you say... 5 Q. Yeah. At what point in the video did 6 you see him and think he was okay where he was 7 on his knee? 8 A. I don't remember. 9 Q. Okay. Having had the opportunity to 10 review the video now, do you remember anything 11 else about any conversations you may have had, 12 in other words, does this jog your memory in 13 that regard at all? 14 A. Not -- no. 15 Q. I don't have any more questions about 16 this part of the video, but I'll play it in 17 case -- because I know you haven't had a chance 18 to see it before. 19 We lost Ron, so I'll stop and I'll 20 wait. Okay, there he is. 21 (A video was viewed.) 22 BY MR. TEICH: 23 Q. All right. I'm going to move towards 24 the end of the video because -- by the way,</p> <p style="text-align: right;">81</p>	<p>1 recollection, was there any discussion with him 2 about what had just happened? 3 A. No. 4 (A video was viewed.) 5 BY MR. TEICH: 6 Q. So I'm going to advance the video close 7 to the end, and at around the 4:10 mark on the 8 video it looks like you finished with the 9 customer and then you walk way. 10 And again, do you recall what you did 11 when you walked away? 12 A. I do not. 13 Q. Okay. Ms. Martinez, I'm going to show 14 you one other video. Bear with me, please. 15 (A video was viewed.) 16 BY MR. TEICH: 17 Q. All right. Can you see this video? 18 A. I can. 19 Q. There's a gentleman standing in sort of 20 the center of the frame, African-American man, 21 wearing a red vest, do you see him? 22 A. Yes, I do. 23 Q. Do you know who he is? 24 A. I do.</p> <p style="text-align: right;">83</p>
<p>1 here, let me do this before we move to the end 2 of the video. 3 There comes a time here when -- that 4 Mr. Narsimhan walks away and there's another 5 customer that walks up, do you see that? 6 THE REPORTER: I'm sorry, we're having a 7 little feedback, Mike. We couldn't hear you. 8 BY MR. TEICH: 9 Q. Okay. Okay. I advanced the video to 10 the point after Mr. Narsimhan completed his 11 transaction and walked away. And there's 12 another customer that comes up behind him. 13 Do you see that? I'll try one more 14 time, because I heard the interference. 15 I advanced the video to a point after 16 Mr. Narsimhan has completed his transaction and 17 walked away, and there's another customer that 18 comes up behind him, do you see that? 19 A. Yes. 20 Q. And I asked you some questions before 21 whether you remember having any conversations 22 with that customer about the incident. 23 Now that you've had a chance to see 24 that gentleman, does it refresh your</p> <p style="text-align: right;">82</p>	<p>1 Q. Who is that? 2 A. That would be Travis Scott. 3 Q. And he's one of the persons you named 4 earlier, is that right? 5 A. Yes. 6 Q. Because I remember the name, but I 7 can't recall what position you said he may have 8 been. Is he the head cashier? 9 A. Yes. 10 Q. And is he standing in a position where 11 the head cashier would typically stand? 12 A. Yes. 13 Q. And is that right by the exit door? 14 A. It is. 15 MR. TEICH: For the record, I -- I don't 16 remember if I identified the first video we 17 watched. For the record, why don't we mark that 18 as Deposition Exhibit No. 2, and we'll mark this 19 video which is a video of the exit area as 20 Deposition Exhibit 3. 21 (Whereupon, MARTINEZ Deposition 22 Exhibit Nos. 2 and 3 were 23 marked for identification.) 24</p> <p style="text-align: right;">84</p>



<p>1 BY MR. TEICH:</p> <p>2 Q. Do you know whether Mr. Scott still</p> <p>3 works at Lowe's?</p> <p>4 A. He does.</p> <p>5 Q. Do you know what his current position</p> <p>6 is?</p> <p>7 A. A cashier.</p> <p>8 Q. At the same location?</p> <p>9 A. At the same location.</p> <p>10 Q. And I'm going to advance this video.</p> <p>11 The time lengths on these two videos are roughly</p> <p>12 the same. I'm going to advance the video</p> <p>13 around --</p> <p>14 THE REPORTER: Mike, you're going out there.</p> <p>15 we only have I'm going to advance the video</p> <p>16 around, that's where we left off.</p> <p>17 (A video was viewed.)</p> <p>18 BY MR. TEICH:</p> <p>19 Q. Okay. I advanced the video to around</p> <p>20 the 1:17, 1:18 mark. And on the very right</p> <p>21 frame of the video there is a cashier.</p> <p>22 Do you see that?</p> <p>23 A. I do.</p> <p>24 Q. Does that appear to be you doing the</p> <p style="text-align: right;">85</p>	<p>1 position to see the whole thing, wasn't he?</p> <p>2 A. It looks that way, yes.</p> <p>3 Q. Having seen the video now, do you</p> <p>4 recall one way or the other whether he told you</p> <p>5 that he witnessed the incident?</p> <p>6 A. I don't recall.</p> <p>7 Q. Do you remember ever speaking to him</p> <p>8 about what he saw?</p> <p>9 A. I think I just turned and -- I turned</p> <p>10 and asked him.</p> <p>11 Q. Okay. Do you remember when you did</p> <p>12 that, was it after --</p> <p>13 A. I don't remember when I -- when I asked</p> <p>14 him.</p> <p>15 Q. And what did he tell you as far as you</p> <p>16 recall, if you recall?</p> <p>17 A. That he didn't see it hit him.</p> <p>18 Q. Okay. I'm going to advance the video</p> <p>19 to the 2:45 mark.</p> <p>20 (A video was viewed.)</p> <p>21 BY MR. TEICH:</p> <p>22 Q. And I want to ask you -- there's a</p> <p>23 woman that walks out of an office there, do you</p> <p>24 see that at the top?</p> <p style="text-align: right;">87</p>
<p>1 same things we just saw from the overhead shot?</p> <p>2 A. Yes.</p> <p>3 Q. Is that basically, given what you</p> <p>4 understand about the layout of the store, that's</p> <p>5 where you had been working at cash register</p> <p>6 No. 9?</p> <p>7 A. Yes.</p> <p>8 Q. And we're looking at a cart that looks</p> <p>9 like it's got one or possibly more than one rod</p> <p>10 sticking out the front end of the cart, is that</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. And in your right hand are you holding</p> <p>14 the scanner that you described?</p> <p>15 A. I am.</p> <p>16 Q. So what we're looking at here is you</p> <p>17 scanning the rod, is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. All right. And if we get to around the</p> <p>20 1:32 mark, it looks to be like that's when you</p> <p>21 put the rod in the cart and it slid through the</p> <p>22 hole; would you agree with that?</p> <p>23 A. Yes.</p> <p>24 Q. Now Mr. Scott looked like he was in a</p> <p style="text-align: right;">86</p>	<p>1 A. Yeah. Could you -- I'm sorry.</p> <p>2 Q. Yeah, I'll go back.</p> <p>3 A. Just...</p> <p>4 Q. I'll go back.</p> <p>5 A. I may know who it is.</p> <p>6 (A video was viewed.)</p> <p>7 THE WITNESS: Okay. I do.</p> <p>8 BY MR. TEICH:</p> <p>9 Q. Who is that?</p> <p>10 A. Her name is Linda. I think her last</p> <p>11 name is Rouge.</p> <p>12 Q. Did you say Rowe, like R-O-W-E?</p> <p>13 A. No, I think it's R-O-U-G-E. I'm not</p> <p>14 sure on her last name.</p> <p>15 Q. And what is her position?</p> <p>16 A. At the time she was -- oh, man, at the</p> <p>17 time she worked in the install office.</p> <p>18 Q. And the install office is the office</p> <p>19 you told about earlier where you were when you</p> <p>20 wrote your report, is that correct?</p> <p>21 A. That's correct.</p> <p>22 Q. And is that the install office that we</p> <p>23 see her walk out of right there?</p> <p>24 A. Yes.</p> <p style="text-align: right;">88</p>



<p>1 Q. Okay. Did you ever ask her if she 2 witnessed this? 3 A. I did not. 4 Q. Do you know who else would have been 5 working in the install office at the time? 6 A. I don't. 7 Q. From your familiarity or understanding 8 of the layout in there, people working in there, 9 are they able to have a clear view of your work 10 station when you're working at checkout No. 9? 11 A. They would just have a view of behind 12 my register. 13 Q. Okay. So if they were working in 14 there, and again I know you don't work in there 15 regularly, but based upon your understanding of 16 that room, would they be able to see this 17 incident? 18 A. Not the incident, no. 19 (A video was viewed.) 20 BY MR. TEICH: 21 Q. I'm going to advance the video a little 22 bit further to around the 3:08 mark. There's a 23 woman speaking with Mr. Scott. 24 Do you see her?</p> <p style="text-align: right;">89</p>	<p>1 this other woman, is that correct? 2 A. Yes. 3 Q. Do you know what you were talking 4 about? 5 A. No. 6 Q. Would this have been when you would 7 have asked him what he saw or do you think that 8 that had already occurred, or if it occurred at 9 a different time or what? 10 A. I think that's when I asked him. 11 Q. Okay. So do you remember anything else 12 about that conversation other than you asking 13 him and he telling you that he didn't see the 14 rod hit my client? 15 A. No. 16 Q. Okay. Do you remember that woman being 17 involved in the conversation at all? 18 A. I do not. 19 Q. Do you remember what you're laughing 20 about here? 21 A. No. 22 Q. Okay. That's the end of the video. 23 You've never seen any other videos or 24 photos of the incident or of my client, is that</p> <p style="text-align: right;">91</p>
<p>1 A. Are you able to back it up just when 2 she gets there. 3 Q. I'll back it up so you can watch her 4 walk in. 5 A. I don't know who she is. 6 Q. Do you know if she's a store employee 7 or not? 8 A. No, I can't tell. 9 Q. Okay. As you were working at your 10 register, do you remember overhearing any part 11 of this conversation that they're having? 12 A. No. 13 (A video was viewed.) 14 BY MR. TEICH: 15 Q. Now if we advance forward to about 16 4:20, remember I told you earlier that after 17 that second customer you walk away from your 18 register? 19 A. Yes. 20 Q. So this appears to be you walking right 21 over towards Mr. Scott, is that correct? 22 A. That is correct. 23 Q. And at this point it looks like you're 24 having a conversation with Mr. Scott and with</p> <p style="text-align: right;">90</p>	<p>1 true? 2 A. That's true. 3 Q. And you have no information about the 4 severity of his injury, is that true? 5 A. That's true. 6 Q. You're not going to express any opinion 7 at trial regarding the nature or the severity of 8 his injury, is that true? 9 A. That is true. 10 MR. TEICH: Thank you. I don't have any 11 other questions, but Mr. Payne may. 12 MR. PAYNE: I don't have any questions. 13 MR. TEICH: Signature? Ron? 14 MR. PAYNE: I had a little feedback. 15 I don't have any questions at this time 16 for this witness, and I don't believe there is 17 signature, it's a federal case. 18 MR. TEICH: You can reserve signature if you 19 want to, it's a federal rule, but you don't have 20 to. You don't have to say anything on the 21 record, you just have to affirm or... 22 MR. PAYNE: I am going to reserve signature 23 because there were a lot of times where the 24 questions and answers dropped out, I want to see</p> <p style="text-align: right;">92</p>



<p>1 them. So we'll reserve signature.</p> <p>2 MR. TEICH: Okay, very good.</p> <p>3 Ms. Martinez, thank you very much.</p> <p>4 THE WITNESS: Thank you.</p> <p>5 (Proceedings concluded at 12:34 p.m.)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p style="text-align: right;">93</p>	<p>1 STATE OF ILLINOIS)</p> <p>2) SS:</p> <p>3 COUNTY OF C O O K)</p> <p>4 I, MARGARET A. RITACCO, a notary public</p> <p>5 within and for the County of Cook and State of</p> <p>6 Illinois, do hereby certify that heretofore,</p> <p>7 to-wit, July 8, 2020, personally appeared before</p> <p>8 me, at 200 North LaSalle Street, Suite 2900,</p> <p>9 Chicago, Illinois, MARCELLA MARTINEZ, in a cause</p> <p>10 now pending and undetermined in the United</p> <p>11 States District Court for the Northern District</p> <p>12 of Illinois Eastern Division, wherein KRISHNA</p> <p>13 NARSIMHAN is the Plaintiff, and LOWE'S HOME</p> <p>14 CENTERS, LLC, is the Defendant.</p> <p>15 I further certify that the said</p> <p>16 MARCELLA MARTINEZ was first duly sworn to</p> <p>17 testify the truth, the whole truth and nothing</p> <p>18 but the truth in the cause aforesaid; that the</p> <p>19 testimony then given by said witness was</p> <p>20 reported stenographically by me in the presence</p> <p>21 of the said witness, and afterwards reduced to</p> <p>22 typewriting by Computer-Aided Transcription, and</p> <p>23 the foregoing is a true and correct transcript</p> <p>24 of the testimony so given by said witness as</p> <p style="text-align: right;">95</p>
<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 NORTHERN DISTRICT OF ILLINOIS</p> <p>3 EASTERN DIVISION</p> <p>4 KRISHNA NARSIMHAN,)</p> <p>5 Plaintiff,)</p> <p>6 vs.) No. 19-cv-01255</p> <p>7 LOWES HOME CENTERS, LLC,)</p> <p>8 Defendant.)</p> <p>9 I, MARCELLA MARTINEZ, being first duly</p> <p>10 sworn, on oath say that I am the deponent in the</p> <p>11 aforesaid deposition taken on the 8th day of</p> <p>12 July, 2020; that I have read the foregoing</p> <p>13 transcript of my deposition and affix my</p> <p>14 signature to same.</p> <p>15 _____</p> <p style="text-align: center;">MARCELLA MARTINEZ</p> <p>16</p> <p>17</p> <p>18 Subscribed and sworn to</p> <p>19 before me this day</p> <p>20 of , 2020</p> <p>21</p> <p>22</p> <p>23 Notary Public</p> <p>24</p> <p style="text-align: right;">94</p>	<p>1 aforesaid.</p> <p>2 I further certify that the signature to</p> <p>3 the foregoing deposition was reserved by counsel</p> <p>4 for the respective parties.</p> <p>5 I further certify that the taking of this</p> <p>6 deposition was pursuant to notice and that there</p> <p>7 were present at the deposition the attorneys</p> <p>8 hereinbefore mentioned.</p> <p>9 I further certify that I am not counsel</p> <p>10 for nor in any way related to the parties to</p> <p>11 this suit, nor am I in any way interested in the</p> <p>12 outcome thereof.</p> <p>13 IN TESTIMONY WHEREOF: I have hereunto</p> <p>14 set my hand and affixed my notarial seal this</p> <p>15 day of , 2020.</p> <p>16</p> <p>17</p> <p>18</p> <p>19 <i>Margaret A. Ritacco</i></p> <p>20 _____</p> <p>21 NOTARY PUBLIC, COOK COUNTY, ILLINOIS</p> <p>22 LIC. NO. 084-002796</p> <p>23</p> <p>24</p> <p style="text-align: right;">96</p>



<p>1 McCorkle Litigation Services, Inc. 2 200 N. LaSalle Street 2900 3 Chicago, Illinois 60601-1014 4 July 20, 2020 5 LEWIS, BRISBOIS, BISGAARD & SMITH 6 MR. RONALD W. PAYNE, 7 555 West Monroe Street, Suite 300 8 Chicago, Illinois 60661 9 10 IN RE: KRISHNA NARSIMHAN VS. 11 LOWES HOME CENTERS, LLC 12 COURT NUMBER: No. 19-cv-01255 13 DATE TAKEN: July 8, 2020 14 DEPONENT: MARCELLA MARTINEZ 15 16 Dear Mr. Payne: 17 18 Enclosed is the deposition transcript for the 19 aforementioned deponent in the above-entitled 20 cause. Also enclosed are additional signature 21 pages, if applicable, and errata sheets. 22 Per your agreement to secure signature, please 23 submit the transcript to the deponent for review 24 and signature. All changes or corrections must be made on the errata sheets, not on the transcript itself. All errata sheets should be signed and all signature pages need to be signed and notarized. After the deponent has completed the above, please return all signature pages and errata sheets to me at the above address, and I will handle distribution to the respective parties. If you have any questions, please call me at the phone number below. Sincerely, Cindy Alicea MARGARET A. RITACCO Signature Department Court Reporter (312)263-0052 cc: ALL COUNSEL ORDERING THE TRANSCRIPT</p>	

97



1	IN THE UNITED STATES DISTRICT COURT	1	I N D E X
2	NORTHERN DISTRICT OF ILLINOIS	2	WITNESS EXAMINATION
3	EASTERN DIVISION	3	EILEEN PARKS
4	KRISHNA NARSIMHAN,)	4	BY MR. TEICH 5
5	Plaintiff,)	5	
6	vs.) No. 19-cv-01255	6	
7	LOWES HOME CENTERS, LLC,)	7	
8	Defendant.)	8	E X H I B I T S
9		9	NUMBER IDENTIFICATION
10	The discovery deposition of	10	(NO EXHIBITS WERE MARKED.)
11	EILEEN PARKS taken in the above-entitled cause,	11	
12	before MARGARET A. RITACCO, CSR, a notary	12	
13	public of Cook County, Illinois, on July 8th, 2020,	13	
14	at the time of 12:46 p.m., via videoconference,	14	
15	pursuant to notice.	15	
16		16	
17		17	
18		18	
19		19	
20		20	
21		21	
22		22	
23	Reported by: MARGARET A. RITACCO, CSR	23	
24	License No.: 084-002796	24	
	1		3
1	APPEARANCES:	1	THE REPORTER: My name is Margaret Ritacco, CSR.
2	ANESI, OZMON, RODIN,	2	The parties are present via videoconference to
3	NOVAK & KOHEN, LTD., by	3	take the discovery deposition of Eileen Parks in
4	MR. MICHAEL L. TEICH,	4	the matter of Krishna Narsimhan versus Lowe's
5	161 North Clark Street, 21st Floor	5	Home Center, Case No. 19-cv-1255, in the United
6	Chicago, Illinois 60601	6	States District Court, Northern District of
7	(312) 372-3822	7	Illinois, Eastern Division. Today's date is
8	mteich@anesilaw.com	8	7/8/20, and the time is 12:46.
9	Representing the Plaintiff	9	This deposition is being taken at the
10		10	instance of the plaintiff. This deposition is
11	LEWIS, BRISBOIS, BISGAARD & SMITH, by	11	being taken by means of videoconferencing, and
12	MR. RONALD W. PAYNE,	12	the oath will be administered remote by the
13	555 West Monroe Street, Suite 300	13	court reporter pursuant to Governor Pritzker's
14	Chicago, Illinois 60661	14	Executive Order 2020-14.
15	(312) 463-3360	15	Will all parties present please state
16	Ron.Payne@lewisbrisbois.com	16	your name and agreement with this procedure.
17	Representing the Defendant.	17	MR. TEICH: Michael Teich on behalf of the
18		18	plaintiff, and I agree.
19		19	MR. PAYNE: Ron Payne on behalf of the
20		20	defendant, and I agree.
21		21	THE WITNESS: Eileen Parks, I agree.
22		22	(witness sworn.)
23		23	MR. TEICH: Thank you.
24		24	Ms. Parks, will you please state and
	2		4



<p>1 spell your name for the record.</p> <p>2 THE WITNESS: It's Eileen Parks, E-I-L-E-E-N,</p> <p>3 P-A-R-K-S.</p> <p>4 MR. TEICH: Thank you.</p> <p>5 EILEEN PARKS,</p> <p>6 called as a witness herein, having been first</p> <p>7 duly sworn, was examined and testified as</p> <p>8 follows:</p> <p>9 EXAMINATION</p> <p>10 BY MR. TEICH:</p> <p>11 Q. Let the record reflect that this is the</p> <p>12 deposition of Eileen Parks taken pursuant to</p> <p>13 notice.</p> <p>14 Ms. Parks, my name is Michael Teich.</p> <p>15 Once again, I represent the plaintiff in this</p> <p>16 case. I'm going to be asking you some</p> <p>17 questions.</p> <p>18 Have you ever given a deposition</p> <p>19 before?</p> <p>20 A. Yes.</p> <p>21 Q. About how many times do you think</p> <p>22 you've been deposed?</p> <p>23 A. Once or twice.</p> <p>24 Q. And were those occasions also in</p> <p style="text-align: right;">5</p>	<p>1 Q. If there comes a time I ask you a</p> <p>2 question and you didn't hear it or you didn't</p> <p>3 understand it, please speak up and let me know,</p> <p>4 and I will repeat the question or rephrase it,</p> <p>5 or do anything else that I need to do, okay?</p> <p>6 A. Okay.</p> <p>7 Q. And again, because there is a court</p> <p>8 reporter here, the questions that I ask and the</p> <p>9 answers that you give have to be out loud, using</p> <p>10 words. If you nod your head or shake your head,</p> <p>11 then she's not going to be able to take that</p> <p>12 down, okay?</p> <p>13 A. Okay. Yes.</p> <p>14 Q. And, again, because there's a court</p> <p>15 reporter, we have to avoid speaking over one</p> <p>16 another as much as possible. So I will wait</p> <p>17 until you finish an answer before I start to</p> <p>18 speak, and I'll ask that you wait until I finish</p> <p>19 my question before you start to answer, okay?</p> <p>20 A. Okay.</p> <p>21 Q. Did you hear my last little statement</p> <p>22 there?</p> <p>23 A. Yes.</p> <p>24 Q. And you agree with that?</p> <p style="text-align: right;">7</p>
<p>1 connection with your work at Lowe's?</p> <p>2 A. Yes.</p> <p>3 Q. Now I'm getting a message -- we're</p> <p>4 doing this -- for the record, we are doing this</p> <p>5 by Zoom and I'm getting the message that Eileen</p> <p>6 Elliot Parks' network band is low. So I'm just</p> <p>7 going to ask: Are you able to see and hear me</p> <p>8 okay?</p> <p>9 A. Yes.</p> <p>10 Q. If at any point during the deposition</p> <p>11 that becomes an issue, will you please let me</p> <p>12 know?</p> <p>13 A. Yes.</p> <p>14 Q. All right. And even though you've</p> <p>15 given depositions before, I'll go over a couple</p> <p>16 of ground rules to make things go a little more</p> <p>17 smoothly.</p> <p>18 One is I want to make sure when we read</p> <p>19 the transcript later on that we can rely upon</p> <p>20 your answers, so that we know that you heard and</p> <p>21 understood each question before you answered it.</p> <p>22 So I see you nodding your head, which</p> <p>23 is good.</p> <p>24 A. Yes.</p> <p style="text-align: right;">6</p>	<p>1 A. Yes.</p> <p>2 Q. Thank you. And if I ask you any</p> <p>3 questions that you don't know the answer to,</p> <p>4 feel free to tell me I don't know or I don't</p> <p>5 remember. As long as that's true, that's a</p> <p>6 perfectly acceptable answer. I don't want you</p> <p>7 to guess, okay?</p> <p>8 A. Okay.</p> <p>9 Q. Give me your address, please.</p> <p>10 A. 520 North Lombard Avenue in Lombard,</p> <p>11 Illinois 60148.</p> <p>12 Q. Who do you currently work for?</p> <p>13 A. Lowe's Home Improvement.</p> <p>14 Q. And for how long have you worked for</p> <p>15 Lowe's?</p> <p>16 A. It's 16 years.</p> <p>17 Q. What is your current position with</p> <p>18 Lowe's?</p> <p>19 A. Asset protection and safety.</p> <p>20 Q. For how long has that been your title?</p> <p>21 A. 16 years.</p> <p>22 Q. Do you work at a -- currently, do you</p> <p>23 work at a particular store or a particular</p> <p>24 region; how does that work?</p> <p style="text-align: right;">8</p>



<p>1 A. I work at Chicago Brickyard, Store 2 1845. 3 Q. And when did you start working at that 4 store? 5 A. This store I started in September 6 of 2019. 7 Q. What store did you work at before that? 8 A. I worked -- 9 THE REPORTER: We didn't get any answer. 10 Mike, we're not getting any -- 11 MR. TEICH: Yeah, I'm seeing that, too. I 12 think it's her band wave. 13 THE WITNESS: You can't hear me? 14 BY MR. TEICH: 15 Q. We can now. There was a good 15 to 20 16 seconds there you were not legible. So let me 17 ask the question again. Hopefully that's not a 18 recurrent problem. 19 A. Okay. 20 Q. What store did you work at before 21 Chicago brick house? 22 A. Brickyard. I worked at Northbrook from 23 August -- or from June until September, 2019. 24 Q. And before that?</p> <p style="text-align: right;">9</p>	<p>1 loss prevention? 2 A. Just I started as a fraud investigator 3 for Nordstrom, and I worked out of the loss 4 prevention office and started seeing what they 5 did and went to that part of it, loss 6 prevention, catching shoplifters and such. 7 Q. And what kind of training did you 8 receive when you first went into loss 9 prevention? 10 A. At Nordstrom it was training for -- 11 just with your coworkers at Nordstrom, it was 12 that. But when I got to Lowe's, it was four 13 weeks of training, two based on loss prevention 14 and two weeks -- or one week, I'm not sure, on 15 safety. It might have been two weeks. 16 Q. Okay. Tell me about your overall job 17 responsibilities, what is your -- how do you 18 describe your job; what do you do? 19 A. What I do is basically operational 20 loss, external loss, internal loss and safety 21 throughout the store, making sure that our top 22 stock is safe, that the store is safe overall. 23 Q. Okay. Is there anybody at -- strike 24 that?</p> <p style="text-align: right;">11</p>
<p>1 A. I was laid off from January -- February 2 1st until I came back in June of 2019. 3 Q. Okay. And prior to February 1st, 2019, 4 where did you work? 5 A. Carol Stream. 6 Q. How long were you at the Carol Stream 7 store? 8 A. 15 years. 9 Q. What did you do before you went to work 10 with Lowe's? 11 A. I worked for Nordstrom. 12 Q. Also in loss prevention? 13 A. Customer service, and then loss 14 prevention, yeah. 15 Q. And how long did you work at Nordstrom? 16 A. Ten years. 17 Q. What did you do before that? 18 A. I owned a Dairy Queen. 19 Q. What's your highest level of formal 20 education? 21 A. Two years of community college. 22 Q. Do you have a degree? 23 A. No. 24 Q. Okay. How did -- how did you get into</p> <p style="text-align: right;">10</p>	<p>1 For the 15 years or so that you worked 2 at the Carol Stream location, would you say that 3 you were the person with the highest level of 4 responsibility with regard to safety? 5 A. I wouldn't say that, no. 6 Q. Okay. Who would that person be? 7 A. I mean, it's -- it's management. So 8 store management and ASMs are the ones that are 9 responsible for reporting, but I also can do 10 that with workmen's comp and general 11 liabilities. 12 Q. Okay. And just for the uninitiated, 13 workmen's comp would deal with injuries to 14 people who work for Lowe's, correct? 15 A. Yes. 16 Q. And general liabilities would deal with 17 injuries to customers and other people who are 18 on Lowe's premises, is that correct? 19 A. Yes. 20 Q. You -- the reason you're giving your 21 deposition today is that your name was provided 22 to me in an interrogatory response as somebody 23 who was at the scene either at the time of or 24 immediately before or after the occurrence.</p> <p style="text-align: right;">12</p>



<p>1 Were you at the scene either at the 2 time of or immediately before or after this 3 occurrence? 4 A. No, I was not. 5 Q. Okay. What is your involvement -- 6 generally, tell me what your involvement with 7 this incident was, and then we'll get into 8 specific questions and answers. 9 A. I basically wrote the report. I'm not 10 sure how it -- how I wrote the report, because I 11 wasn't there, so I'm not sure if it was the next 12 day, but I have to pull video and turn that in. 13 Q. Okay. And when you say you wrote the 14 report, which report are you referring to? 15 A. The incident report. That -- 16 Q. That -- I'm sorry, I violated one of my 17 rules and I started speaking before you were 18 finished. I'll ask the question again. 19 What incident are you referring to? 20 A. The incident report for the customer 21 that was injured. I'm the one that wrote the 22 report, probably for my store manager. 23 Q. Okay. So at some point following this 24 incident, you wrote an incident report and you</p> <p style="text-align: right;">13</p>	<p>1 suggest that I ask a few more questions here and 2 then we suspend the dep and we come back when I 3 have the report. You know, I can't imagine any 4 reason why it would be privileged, but if you're 5 going to claim privilege, maybe we need to get 6 through that before we finish this deposition. 7 MR. PAYNE: Again, I'll be happy to provide 8 the report later. I don't know what the basis 9 of it not being tendered. I assumed that you 10 had it. 11 MR. TEICH: No, that's fine. I mean, I'm not 12 putting you on the spot. 13 MR. PAYNE: And honestly, I think if you ask 14 a few questions, Ms. Parks' actual knowledge of 15 the accident is pretty much limited to her 16 pulling the video, so. 17 MR. TEICH: Yeah, that's fine. 18 BY MR. TEICH: 19 Q. Ms. Parks, aside from the one incident 20 report that you told me that you completed and 21 that you have in front of you, have you prepared 22 any other report in connection with this matter? 23 A. With this matter? 24 Q. Yes.</p> <p style="text-align: right;">15</p>
<p>1 turned it in to who, the store manager? 2 A. I gave it to the store manager. 3 Q. Okay. 4 A. Yes. 5 Q. Do you have a copy of that incident 6 report in front of you? 7 A. I do. 8 MR. TEICH: Okay. Counsel, that was never 9 turned over in discovery, was it? 10 MR. PAYNE: You know, I don't know. You did 11 written discovery in this case before I was 12 involved. I assumed that the incident report 13 was turned over. Do you not have that? 14 MR. TEICH: No, all I have is Ms. Martinez' 15 handwritten report. 16 MR. PAYNE: For the record, I don't know the 17 basis of why the incident report would be 18 withheld, but I will be happy with a 19 supplemental request to either provide it or 20 provide a specific objection, if the client did 21 have some objection. 22 MR. TEICH: Okay. I mean that's fine. 23 Obviously I'd like to have that when I depose 24 the witness who wrote the report. You know, I</p> <p style="text-align: right;">14</p>	<p>1 A. No. 2 Q. Okay. Have you reviewed any other 3 reports in connection with this incident? 4 A. No. 5 Q. Did you ever review Ms. Martinez' 6 handwritten statement? 7 A. No. 8 Q. Did you ever speak to the plaintiff in 9 this case? 10 A. No. 11 Q. Who did you speak to in preparing the 12 report that you did prepare? 13 A. I was told probably to pull the video, 14 probably by Jody Rankin who was the store 15 manager at the time. I was told to pull the 16 video, and that's about the extent of it. 17 Q. Okay. And did you pull the video? 18 A. Yes. 19 Q. Do you remember when that was? 20 A. I do not know the date, except maybe 21 what I wrote on the report. 22 Q. Okay. So the incident occurred on 23 June 25, 2016. Would you have pulled the video 24 around that time?</p> <p style="text-align: right;">16</p>



<p>1 A. It depends if I was at work or not.</p> <p>2 Q. Well, according to your report, when</p> <p>3 did you pull the video?</p> <p>4 A. I -- it doesn't ask when you -- it says</p> <p>5 the 25th.</p> <p>6 Q. And when you --</p> <p>7 A. -- but that, I do not remember.</p> <p>8 Q. When did you prepare your report, is it</p> <p>9 dated?</p> <p>10 A. It's dated 6/25.</p> <p>11 Q. Would that have been when you prepared</p> <p>12 the report?</p> <p>13 A. No, that would probably have been the</p> <p>14 incident date.</p> <p>15 Q. Okay. In any event, you reviewed the</p> <p>16 video, is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. And does your report contain your</p> <p>19 impression...</p> <p>20 THE REPORTER: I'm sorry, I couldn't hear</p> <p>21 you, Mike.</p> <p>22 BY MR. TEICH:</p> <p>23 Q. Does your report contain your -- your</p> <p>24 impression upon review of the video?</p> <p style="text-align: right;">17</p>	<p>1 A. I saw basically -- I only could see the</p> <p>2 rod go onto the floor.</p> <p>3 Q. Could you tell one way or the other</p> <p>4 whether the rod struck the customer?</p> <p>5 A. I could not tell.</p> <p>6 Q. Are you prepared to testify based upon</p> <p>7 your review of the video that the rod did not</p> <p>8 strike the customer?</p> <p>9 A. No. I cannot tell.</p> <p>10 Q. If the customer claims that the rod</p> <p>11 struck him, you would not dispute that, would</p> <p>12 you?</p> <p>13 A. I cannot tell if it struck him or not.</p> <p>14 Q. Okay. What is your understanding of</p> <p>15 what the cause of this incident was?</p> <p>16 A. From what I understand, the cashier put</p> <p>17 the rod in the cart and the rod went through the</p> <p>18 cart.</p> <p>19 Q. And did you come to any conclusion as</p> <p>20 to what should have been done differently to</p> <p>21 prevent this?</p> <p>22 A. I do not.</p> <p>23 Q. Do you have any criticism of the way</p> <p>24 the rod was place in the cart?</p> <p style="text-align: right;">19</p>
<p>1 A. I still can't hear you.</p> <p>2 Q. I'll try one more time.</p> <p>3 Does your report contain your</p> <p>4 impression based upon your review of the video?</p> <p>5 A. Yes.</p> <p>6 Q. How long is your report?</p> <p>7 A. It's just a page. It just basically</p> <p>8 has the customer's name, and what the incident</p> <p>9 was, and that I pulled video, and I signed off</p> <p>10 that I pulled video.</p> <p>11 Q. Okay. When you watched the video, what</p> <p>12 did you see?</p> <p>13 A. The customer came -- I have the -- what</p> <p>14 we do is we pull the customer coming into the</p> <p>15 store, and then the incident itself, and then</p> <p>16 exiting the store.</p> <p>17 Q. And when was the last time you had the</p> <p>18 opportunity to review the video of the incident</p> <p>19 itself?</p> <p>20 A. I just reviewed.</p> <p>21 Q. In your words, what did you see -- in</p> <p>22 your words, as someone who's got safety</p> <p>23 responsibilities in the store, what did you see</p> <p>24 in the video?</p> <p style="text-align: right;">18</p>	<p>1 A. I didn't hear you.</p> <p>2 Q. Do you have any criticism of the way</p> <p>3 the rod was placed into the cart?</p> <p>4 A. I do not.</p> <p>5 Q. Do you have any criticisms of anything</p> <p>6 Mr. Narsimhan...</p> <p>7 A. I do not.</p> <p>8 THE REPORTER: I couldn't hear you, I'm</p> <p>9 sorry, Mike.</p> <p>10 MR. TEICH: I'll repeat the last question.</p> <p>11 BY MR. TEICH:</p> <p>12 Q. Do you have any criticism of anything</p> <p>13 that Mr. Narsimhan did?</p> <p>14 A. If I'm understanding you correctly,</p> <p>15 you're asking if I have any criticism of what he</p> <p>16 did?</p> <p>17 Q. Yes.</p> <p>18 A. No, I do not.</p> <p>19 Q. Okay. Do you have any personal</p> <p>20 knowledge of what occurred aside from what you</p> <p>21 saw on the video?</p> <p>22 A. I do not.</p> <p>23 Q. Do you have any knowledge of this</p> <p>24 incident from speaking to any witness or from</p> <p style="text-align: right;">20</p>



<p>1 any other source aside from what you saw in the 2 video?</p> <p>3 A. I do not.</p> <p>4 Q. So if you watch the video and I watch 5 the video, then we each have the same amount of 6 information about what occurred, is that what 7 you're saying?</p> <p>8 A. Yes.</p> <p>9 MR. TEICH: In that case, I'm going to 10 suspend the deposition. I'd like to see the 11 statement, Ron. I may or may not want to ask 12 some additional questions based upon the 13 statement or the report, but, you know, from 14 what I've heard, I think I'm probably 15 entitled...</p> <p>16 I'm not asking you to respond to this. 17 I know you need to speak to your client before 18 you stake out a position. I'm just stating for 19 the record that I'm probably entitled to that 20 report and I should have it before I depose this 21 witness.</p> <p>22 So I'm going to end the deposition now 23 with the right to revisit it once I receive 24 that.</p> <p style="text-align: right;">21</p>	<p>1 I'll just state that there was no 2 privilege log provided and there was no 3 indication that this document is privileged. So 4 if it was being held back to claim a 5 privilege...</p> <p>6 MR. PAYNE: Okay.</p> <p>7 MR. TEICH: It may have just been an 8 oversight, maybe somebody intended to send it 9 over and didn't.</p> <p>10 So I'll get the document or I'll get 11 your claim of privilege, because if this is 12 being claimed, then there might be other things 13 over which privilege is being claimed, and I'd 14 like to know that.</p> <p>15 So we'll get to the bottom of it and 16 then I'll make a decision as to whether I want 17 to revisit that.</p> <p>18 MR. PAYNE: Okay.</p> <p>19 Is there anything else, I guess?</p> <p>20 MR. TEICH: No not at the moment.</p> <p>21 MR. PAYNE: Oh, well the deposition is 22 suspended then.</p> <p>23 MR. TEICH: Okay. Thank you.</p> <p>24 Thank you, Margie.</p> <p style="text-align: right;">23</p>
<p>1 MR. PAYNE: Okay, that's fine. If you can 2 just put your request in writing or else I can 3 put a response writing, I'd appreciate that, 4 because I'm not certain that -- I believe I 5 looked at the document and it may be 6 confidential in that it may have been 7 prepared...</p> <p>8 THE REPORTER: I can't hear you.</p> <p>9 MR. TEICH: Hold on, Ron. One second.</p> <p>10 Ms. Parks, can you mute your 11 microphone. I have a feeling we're getting 12 feedback from you.</p> <p>13 Go ahead, Ron, try it again.</p> <p>14 MR. PAYNE: I just wanted to state for the 15 record that I believe the document is 16 privileged. It was prepared and it's just a 17 base of litigation and sent directly to 18 third-party administrators for investigation of 19 claims; therefore I believe it may be protected 20 and confidential.</p> <p>21 MR. TEICH: That's fine, and again, I'm not 22 going to hold you to anything you say now on the 23 spur of the moment. I know that you're going to 24 need to stake out a position check.</p> <p style="text-align: right;">22</p>	<p>1 THE REPORTER: Thank you.</p> <p>2 MR. PAYNE: Thanks, Eileen.</p> <p>3 THE WITNESS: Thank you.</p> <p>4 (Whereupon, the deposition was 5 continued sine die.) 6 (Proceedings concluded at 1:07 p.m.)</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p style="text-align: right;">24</p>



1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF C O O K)
4
5 I, MARGARET A. RITACCO, being first duly
6 sworn, on oath says that she is a court reporter
7 doing business in the City of Chicago; and that
8 she reported in shorthand the proceedings of
9 said deposition, and that the foregoing is a
10 true and correct transcript of her shorthand
11 notes so taken as aforesaid, and contains the
12 proceedings given at said deposition.

13 Margaret A. Ritacco

14 MARGARET A. RITACCO, CSR

15 LIC. NO. 084-002796
16
17
18
19
20
21
22
23
24

25



1	IN THE UNITED STATES DISTRICT COURT	1	I N D E X
2	NORTHERN DISTRICT OF ILLINOIS	2	WITNESS EXAMINATION
3	EASTERN DIVISION	3	JODY RANKIN
4	KRISHNA NARSIMHAN,)	4	BY MR. BERMAN 5
5	Plaintiff,)	5	BY MR. YOUNG 38
6	vs.) No. 19-cv-01255	6	BY MR. BERMAN, FURTHER 48
7	LOWE'S HOME CENTERS,)	7	BY MR. YOUNG, FURTHER 49
8	LLC,)	8	
9	Defendant.	9	E X H I B I T S
10		10	NUMBER IDENTIFICATION
11	The discovery deposition of	11	RANKIN Deposition
12	JODY RANKIN taken in the above-entitled cause,	12	Exhibit No. 1 24
13	before MARGARET A. RITACCO, CSR, a notary	13	Exhibit No. 2 28
14	public of Cook County, Illinois, on December 9,	14	Exhibit No. 3 34
15	2020, at the time of 10:00 a.m., via	15	
16	videoconference, pursuant to subpoena.	16	
17		17	
18		18	
19		19	
20		20	
21		21	
22		22	
23	Reported by: MARGARET A. RITACCO, CSR	23	
24	License No.: 084-002796	24	
	1		3
1	APPEARANCES:	1	THE REPORTER: My name is Margaret Ritacco, CSR.
2	ANESI, OZMON, RODIN,	2	The parties are present via videoconference to
3	NOVAK & KOHEN, LTD., by	3	take the discovery deposition of Jody Rankin in
4	MR. STEVEN BERMAN,	4	the matter of Krishna Narsimhan versus Lowe's
5	161 North Clark Street, 21st Floor	5	Home Center, Case No. 19-cv-1255, in the United
6	Chicago, Illinois 60601	6	States District Court, Northern District of
7	(312) 372-3822	7	Illinois, Eastern Division. Today's date is
8	sberman@anesilaw.com	8	December 9, 2020, and the time is 10:00 a.m.
9	Representing the Plaintiff;	9	This deposition is being taken at the
10		10	instance of the plaintiff. This deposition is
11	LEWIS, BRISBOIS, BISGAARD & SMITH, by	11	being taken by means of videoconferencing, and
12	MR. TIMOTHY J. YOUNG,	12	the oath will be administered remote by the
13	555 West Monroe Street, Suite 300	13	court reporter pursuant to Governor Pritzker's
14	Chicago, Illinois 60661	14	Executive Order 2020-14.
15	(312) 463-3360	15	Will all parties present please state
16	Tim.Young@lewisbrisbois.com	16	your name and agreement with this procedure.
17	Representing the Defendant.	17	MR. BERMAN: Steve Berman for the plaintiff,
18		18	yes, I agree.
19		19	MR. YOUNG: Timothy Young for the defendant,
20		20	yes, agree.
21		21	THE WITNESS: Jody Rankin, yes, agreed.
22		22	(witness sworn.)
23		23	MR. BERMAN: Okay. Thank you. Mr. Rankin,
24		24	my name is Steve Berman. I'm going to be asking
	2		4



1 you some questions today. Have you ever given a
2 deposition before?

3 THE WITNESS: Yes, I have.

4 MR. BERMAN: Okay. Terrific.

5 So, for the record, this is the
6 deposition of Jody Rankin taken pursuant to
7 notice, and, I believe, subpoena and taken
8 pursuant to the applicable Federal Court Rules.

9 Mr. Rankin, could you just please state
10 and spell your full name for the record.

11 THE WITNESS: Sure. Jody Rankin, J-O-D-Y,
12 R-A-N-K-I-N.

13 JODY RANKIN,
14 called as a witness herein, having been first
15 duly sworn, was examined and testified as
16 follows:

17 EXAMINATION

18 BY MR. BERMAN:

19 Q. Okay. And what is your date of birth?

20 A. [REDACTED], 1967.

21 Q. What's your residence address?

22 A. [REDACTED], Plainfield,
23 Illinois, 60586.

24 Q. And is that a house or an apartment?

5

1 Home Depot?

2 A. I'm an assistant store manager.

3 Q. Okay. And which location are you
4 assigned to?

5 A. Orland Park, Illinois.

6 Q. When did you first start working for
7 the company Home Depot?

8 A. October of 2016.

9 Q. Have you always worked for the same
10 Orland Park location?

11 A. No, I worked at the Shorewood location,
12 Chicago Ridge, Calumet City and now Orland Park.

13 Q. Okay. Prior to working for Home Depot,
14 where did -- who did you work for?

15 A. Lowe's.

16 Q. Lowe's, okay. And how long did you
17 work for the company Lowe's?

18 A. 13 years.

19 Q. Back in June of 2016, were you working
20 for Lowe's?

21 A. Yes.

22 Q. And at that point in time, which --
23 which store were you assigned to?

24 A. Carol Stream, Illinois.

7

1 A. A house.

2 Q. Okay. Do you live there with anyone
3 else?

4 A. Yes.

5 Q. Who do you live there with?

6 A. My wife and my daughter.

7 Q. And what is your wife's name?

8 A. Melissa.

9 Q. And how old is your daughter?

10 A. She is 17.

11 Q. 17. And what is her name?

12 A. [REDACTED]

13 Q. Okay. Can you tell us a little bit
14 about your educational background, where you
15 went to high school, college, et cetera?

16 A. Sure. I went to high school at
17 Crete-Monee High School in Crete, Illinois. And
18 I graduated from Lewis University in Romeoville,
19 Illinois, in 1991.

20 Q. Are you currently employed, sir?

21 A. Yes.

22 Q. Where are you employed?

23 A. Home Depot.

24 Q. Okay. And what is your job title at

6

1 Q. And were you the store manager at that
2 point in June of 20 -- June 25, 2016, at Carol
3 Stream Lowe's.

4 A. Yes.

5 Q. How long were you assigned to that
6 Carol Stream store?

7 A. About five years.

8 Q. Okay. And during that five-year period
9 of time, were you always store manager there or
10 had your job title changed at that location at
11 all?

12 A. No, it was always store -- store
13 manager.

14 Q. Okay. Great. And before I get into
15 your -- specifically to the Carol Stream store,
16 I would assume, you've told me, that you worked
17 at other Lowe's as well, right?

18 A. Yes.

19 Q. Which other stores, Lowe's stores, did
20 you work at?

21 A. Kankakee, Illinois, Schererville,
22 Indiana, St. Charles, Illinois. I think that's
23 it.

24 Q. Okay. And for the 13 years you worked

8



<p>1 for Lowe's, were you always the store manager or</p> <p>2 did you kind of start at the bottom and work</p> <p>3 your way up to the top?</p> <p>4 A. No, actually, I started off as an</p> <p>5 assistant store manager in the St. Charles</p> <p>6 store, and after about a year and a half, I</p> <p>7 became the store manager.</p> <p>8 Q. Great. What kind of experience did you</p> <p>9 have -- work experience did you have before</p> <p>10 starting at Lowe's 13 years prior to that?</p> <p>11 A. I was a store manager for Circuit City.</p> <p>12 Q. And which location were you -- did you</p> <p>13 work -- were you working at for that company?</p> <p>14 A. The most recent one was Naperville,</p> <p>15 Illinois.</p> <p>16 Q. Okay. So let me just ask about the</p> <p>17 relevant time frame. That's the one that's</p> <p>18 going to be the Carol Stream store for -- in the</p> <p>19 year of 2016. As store manager for Lowe's at</p> <p>20 the Carol Stream store, what were your</p> <p>21 day-to-day duties and responsibilities?</p> <p>22 A. Oversee the operations and sales</p> <p>23 functions of the store. I mean, goals of</p> <p>24 achieving profit and sales, directly managing</p> <p style="text-align: right;">9</p>	<p>1 there was, you know, 130 associates. I get it</p> <p>2 that you might not remember everyone.</p> <p>3 So let me just ask a broad question.</p> <p>4 The reason I brought up Marcella Martinez is she</p> <p>5 is going to be relevant for some other questions</p> <p>6 we're going to be talking about today. To the</p> <p>7 best of your knowledge, to the best of your</p> <p>8 memory, can you tell me what individual from</p> <p>9 Lowe's, if any, was involved in training</p> <p>10 Marcella Martinez relative to the job position</p> <p>11 of cashier?</p> <p>12 A. I can't remember anyone's names from</p> <p>13 back then.</p> <p>14 Q. Okay. Do you know if Marcella Martinez</p> <p>15 was trained by someone from Lowe's to do the job</p> <p>16 of cashier, if at all?</p> <p>17 A. I can -- well, I mean, as part of</p> <p>18 the -- as part of the employment process,</p> <p>19 everyone gets trained on their position. So she</p> <p>20 would have been trained to perform her job</p> <p>21 functions.</p> <p>22 Q. Okay. And are you answering that</p> <p>23 question because you're aware of the general,</p> <p>24 normal custom and practice over at Lowe's versus</p> <p style="text-align: right;">11</p>
<p>1 three assistant managers and approximately 130</p> <p>2 associates.</p> <p>3 Q. Is associates the term used for</p> <p>4 employees of the store?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Which would include cashiers at</p> <p>7 the --</p> <p>8 A. Yes.</p> <p>9 Q. -- front of the store? Okay. As store</p> <p>10 manager, to what extent, if at all, are you --</p> <p>11 were you involved in training cashiers?</p> <p>12 A. I wasn't really. I wasn't really</p> <p>13 involved in training direct cashiers.</p> <p>14 Q. Okay. Was there somebody, to your</p> <p>15 knowledge, at Lowe's Carol Stream who was</p> <p>16 involved in the process of training a cashier as</p> <p>17 to what their responsibilities were?</p> <p>18 A. It would have been the front end</p> <p>19 supervisors and the head cashiers.</p> <p>20 Q. Okay. Do you know a cashier who was</p> <p>21 working back in -- sorry -- in June of 2016 by</p> <p>22 the name of Marcella Martinez?</p> <p>23 A. It slightly rings a bell.</p> <p>24 Q. Okay. Fair enough. You said that</p> <p style="text-align: right;">10</p>	<p>1 the specific -- this particular person,</p> <p>2 Ms. Martinez?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. So then let's talk about -- so</p> <p>5 is it fair to say from your knowledge, from your</p> <p>6 memory and your personal observations, you can't</p> <p>7 testify definitively that Ms. Martinez was</p> <p>8 trained by Lowe's, but you assume she was; is</p> <p>9 that fair?</p> <p>10 A. Correct, yes.</p> <p>11 Q. Okay. So then let's talk about that</p> <p>12 process. You said everyone gets trained for</p> <p>13 their -- for their job position. For the job of</p> <p>14 a cashier, can you tell me what the process was</p> <p>15 back at Lowe's prior to June 25, 2016?</p> <p>16 A. There would be some online training</p> <p>17 that each cashier went through during the</p> <p>18 orientation process explaining the different</p> <p>19 functions of being a cashier, and then they</p> <p>20 would have been matched up with a mentor on the</p> <p>21 sales floor to hand -- to do hands-on training,</p> <p>22 transactions, until they were comfortable doing</p> <p>23 them on their own.</p> <p>24 Q. And then you said that the people at</p> <p style="text-align: right;">12</p>



<p>1 Lowe's who were responsible for that type of</p> <p>2 training would be a front end supervisor or</p> <p>3 someone who is a head cashier; is that right?</p> <p>4 A. Correct. Yes.</p> <p>5 Q. Back in 2016, who was the front end</p> <p>6 supervisor or supervisors for the Carol Stream</p> <p>7 Lowe's store?</p> <p>8 A. I don't remember her name.</p> <p>9 Q. Okay. It was just one person though?</p> <p>10 A. There was one front end supervisor,</p> <p>11 yes.</p> <p>12 Q. And it was a female?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Fair enough. Let me ask you the</p> <p>15 same question about head cashiers. Back in the</p> <p>16 same time frame in 2016, prior to June 25th, who</p> <p>17 were the head cashiers over at the Carol Stream</p> <p>18 Lowe's store?</p> <p>19 A. I don't remember.</p> <p>20 Q. Okay. Was it one person or more than</p> <p>21 one person for the head cashiers?</p> <p>22 A. No, there were multiple head cashiers.</p> <p>23 Q. How many were there?</p> <p>24 A. I don't remember a specific amount.</p> <p style="text-align: right;">13</p>	<p>1 is no product inside, to ring up all of the</p> <p>2 items, even those that seem to look -- look the</p> <p>3 same, they may not be the same. So training on</p> <p>4 different functions of how to be a cashier.</p> <p>5 Every employee went through safety</p> <p>6 training. Every employee went through customer</p> <p>7 service training.</p> <p>8 Q. Okay. Let me follow up on what you</p> <p>9 just said a moment ago. You said every employee</p> <p>10 went through safety training. What does that</p> <p>11 entail relative to cashiers?</p> <p>12 A. I don't -- I don't remember the</p> <p>13 specifics of what the safety training would have</p> <p>14 consisted of.</p> <p>15 Q. So I'll ask you very specifically, and</p> <p>16 again, if you don't know, it's fair. I'm just</p> <p>17 asking, you know, because you were the store</p> <p>18 manager, I'm trying to find out some information</p> <p>19 here.</p> <p>20 We are going to be talking about an</p> <p>21 incident that occurred to my client in which a</p> <p>22 rod fell -- at the cashier's station, fell</p> <p>23 through one of the holes in the -- the cart and</p> <p>24 down and through the hole and kind of hit my</p> <p style="text-align: right;">15</p>
<p>1 Q. Can you give me an estimate, was it</p> <p>2 more than five, less than five?</p> <p>3 A. Probably four to five.</p> <p>4 Q. Okay. What would be the responsibility</p> <p>5 of a head cashier during the sales time --</p> <p>6 forgetting the training for a moment, during the</p> <p>7 actual sales on the floor, what do head cashiers</p> <p>8 do?</p> <p>9 A. Observe the cashiers to ensure that</p> <p>10 they're giving good customer service, ringing --</p> <p>11 ringing all of the merchandise correctly and</p> <p>12 stepping in when necessary if there's an</p> <p>13 increase in customer count and making general</p> <p>14 observations of the cashiers and customers.</p> <p>15 Q. All right. To your knowledge -- well,</p> <p>16 strike that.</p> <p>17 What, if any, knowledge do you have as</p> <p>18 to this online training and orientation process</p> <p>19 for the job of being a cashier at Lowe's?</p> <p>20 A. The training consisted of going through</p> <p>21 different acronyms and procedures of being a</p> <p>22 cashier, that would help the cashier understand</p> <p>23 how to ring up customers, such as looking inside</p> <p>24 large garbage cans and tubs to make sure there</p> <p style="text-align: right;">14</p>	<p>1 client. My question for you is simply this. To</p> <p>2 your knowledge, relative to safety training,</p> <p>3 were Lowe's cashiers trained to be observant as</p> <p>4 to how they place long, thin items into a cart</p> <p>5 to prevent those items from falling through the</p> <p>6 cart and hitting a person?</p> <p>7 A. No.</p> <p>8 Q. Okay. So, to your knowledge -- and</p> <p>9 again, based upon your knowledge as store</p> <p>10 manager and your knowledge of the safety</p> <p>11 training provided to Lowe's employees and</p> <p>12 cashiers, was there any safety training relating</p> <p>13 to how to stack or place objects into a</p> <p>14 customer's cart so as not to injure a customer?</p> <p>15 A. No.</p> <p>16 Q. Okay. And let me broaden the question</p> <p>17 even a little bit more because we were talking</p> <p>18 about the safety training for that online</p> <p>19 training and orientation for clerk -- for store</p> <p>20 clerks or for cashiers. To your knowledge,</p> <p>21 working at Lowe's for 13 years, has there ever</p> <p>22 been any training at Lowe's for any employees at</p> <p>23 Lowe's as to the concept of how to place or</p> <p>24 stack items in a customer's cart so as to not</p> <p style="text-align: right;">16</p>



<p>1 injure customers?</p> <p>2 A. No.</p> <p>3 Q. Okay. All right. In terms of your</p> <p>4 responsibilities as a store manager for Lowe's,</p> <p>5 did you have any responsibility for documenting</p> <p>6 or investigating any accidents or incidents that</p> <p>7 occurred at the store?</p> <p>8 A. Yes.</p> <p>9 Q. Tell me about your responsibility</p> <p>10 relative to that.</p> <p>11 A. When an incident occurred, the manager</p> <p>12 on duty would take down -- take down some</p> <p>13 general information and specifics about the type</p> <p>14 of incident, record the information, and submit</p> <p>15 it to our insurance company with all of the</p> <p>16 details of the incident.</p> <p>17 Q. And obviously, over at the Lowe's</p> <p>18 store, back in June of 2016, that you worked at,</p> <p>19 there were some surveillance cameras that</p> <p>20 potentially could observe an incident that might</p> <p>21 occur, right?</p> <p>22 A. Yes.</p> <p>23 Q. And as part of your responsibility as</p> <p>24 the store manager, if the -- if an incident is</p> <p style="text-align: right;">17</p>	<p>1 She was also responsible for safety training and</p> <p>2 loss prevention training of the -- of the</p> <p>3 cashiers to ensure that everything was run</p> <p>4 correctly and paid for when they left the store.</p> <p>5 Q. Yeah, so I'm glad you touched upon</p> <p>6 that, because that was my next question. You</p> <p>7 mentioned the loss prevention manager may have</p> <p>8 also been involved in some safety training. Is</p> <p>9 that the same safety training you were talking</p> <p>10 about before when you were talking about the</p> <p>11 orientation process for cashiers?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So that's not a separate</p> <p>14 training that we already have -- we haven't</p> <p>15 already talked about, accurate?</p> <p>16 A. No, no, correct.</p> <p>17 Q. What I said is correct?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. So then I won't go back over all</p> <p>20 those questions about safety training.</p> <p>21 A. Okay.</p> <p>22 Q. Okay. As the store manager for the</p> <p>23 Carol Stream store back on June 25, 2016, did</p> <p>24 you have an office at the store?</p> <p style="text-align: right;">19</p>
<p>1 reported to you, it's part of your job to -- I</p> <p>2 would imagine, correct me if I'm wrong here --</p> <p>3 would be to kind of save the video of the</p> <p>4 incident; is that right?</p> <p>5 A. That would be the loss prevention</p> <p>6 manager that would be the one that would do</p> <p>7 that.</p> <p>8 Q. Okay. Got it. So let me ask you</p> <p>9 about -- you mentioned loss prevention manager.</p> <p>10 Do you remember the name Eileen Parks?</p> <p>11 A. Yes.</p> <p>12 Q. Back in June of 2016, was Eileen Parks</p> <p>13 the Lowe's loss prevention manager for that same</p> <p>14 store we're talking about, the Carol Stream</p> <p>15 store?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Great. Tell me a little bit</p> <p>18 more from your -- from your knowledge what the</p> <p>19 duties and responsibilities on a day-to-day</p> <p>20 basis are for the Lowe's loss prevention</p> <p>21 manager, Eileen Parks, back in June of 2016?</p> <p>22 A. She would walk on the sales floor</p> <p>23 looking for any potential shoplifters. She</p> <p>24 would view video to look for any shoplifters.</p> <p style="text-align: right;">18</p>	<p>1 A. Yes.</p> <p>2 Q. Where was your office located relative</p> <p>3 to the -- to the cashiers in the front of the</p> <p>4 store?</p> <p>5 A. It was -- it was near the front of the</p> <p>6 store, probably 50 yards away from the cashiers.</p> <p>7 Q. When you say 50 yards away, do you --</p> <p>8 and I know -- I'm trying to orient to myself.</p> <p>9 Would you say, if it's possible, north, south,</p> <p>10 east or west of the cashiers or how -- or the</p> <p>11 front end of the store, how would you</p> <p>12 characterize it, where your office was located?</p> <p>13 A. I mean, it was at -- it was at the</p> <p>14 front of the store. I don't recall which --</p> <p>15 which direction that the store -- the store was</p> <p>16 oriented on, quite honestly.</p> <p>17 Q. Okay. Fair enough. I'm assuming --</p> <p>18 and I understand that the registers were all</p> <p>19 numbered, they all had numbers associated with</p> <p>20 them; is that right?</p> <p>21 A. Yes.</p> <p>22 Q. One of the registers was listed as</p> <p>23 Register 9, identified as Register 9, is that</p> <p>24 accurate, over at that Lowe's store?</p> <p style="text-align: right;">20</p>



<p>1 A. I don't remember the exact register 2 numbers.</p> <p>3 Q. Okay. Well, my question was going to 4 be where is -- where was your office located 5 relative to Register 9, can you give me an 6 answer to that or if you don't know -- if you 7 don't know, that's --</p> <p>8 A. I can't recall. Yeah, I don't recall.</p> <p>9 Q. Fair enough. From -- hypothetically, 10 if you were sitting in your office on June 25, 11 2016, did you -- if you were in the office, did 12 you have a window that overlooked the cash 13 registers?</p> <p>14 A. No.</p> <p>15 Q. Okay. So if you were in your office, 16 you wouldn't be within eyeshot of the cash 17 registers; is that accurate?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. Did your office have windows 20 that you could look in -- at the doorway there 21 to -- that leads to the outside after the people 22 leave the cash registers?</p> <p>23 A. No.</p> <p>24 Q. Okay, okay. What was your custom back</p> <p style="text-align: right;">21</p>	<p>1 approximately 9:30 or 9:37 a.m. Could you tell 2 me, as you sit here today, whether you were in 3 the office, your office, at the time of that 4 incident, or whether you were on the floor?</p> <p>5 A. I don't recall.</p> <p>6 Q. Okay. It's my understanding that you 7 did, at some point, speak to my client, 8 Krishna Narsimhan. Do you recall that?</p> <p>9 A. No, I do not.</p> <p>10 Q. Okay. You don't recall having any 11 telephone conversation with my client 12 whatsoever?</p> <p>13 A. No.</p> <p>14 Q. Let me see if I can show you something 15 that might refresh your memory, it might not, 16 but let's find out. And what I'll do is, 17 I'll -- I'm going to share my screen so you can 18 take a look at what I'm looking at as well. And 19 it's an e-mail that, I believe, you sent or a 20 copy of an e-mail. Can you see my screen now?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. It's an e-mail that's, I 23 believe, from you. It says from Jody Rankin and 24 there's your store -- Lowe's store e-mail</p> <p style="text-align: right;">23</p>
<p>1 in June of 2016 as to the amount -- the time you 2 spent in your office at the store versus walking 3 the floor?</p> <p>4 A. I would say probably 85 percent was on 5 the sales floor, 15 percent was in the office.</p> <p>6 Q. Okay. Great. I'm going to ask you a 7 question or some questions now about an incident 8 that occurred, which I don't know if you 9 remember or not. But there was an incident that 10 occurred on June 25, 2016, to my client, 11 Krishna Narsimhan, that happened over at 12 Register 9 when a downrod slid out of a shopping 13 cart and hit him in the lower leg or foot. Do 14 you recall being notified of that incident at 15 some point?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. How did you first learn of that 18 incident?</p> <p>19 A. I don't recall.</p> <p>20 Q. Okay. Well, let me back up even 21 further. Did you witness that incident? Did 22 you see it happen?</p> <p>23 A. Not to my -- not to my knowledge, no.</p> <p>24 Q. Okay. The incident occurred at</p> <p style="text-align: right;">22</p>	<p>1 address, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So we are going to mark this, 4 just to be clear, as your Deposition Exhibit 5 No. 1.</p> <p>6 (whereupon, RANKIN Deposition 7 Exhibit No. 1 was marked for 8 identification.)</p> <p>9 BY MR. BERMAN:</p> <p>10 Q. It appears like it was sent on June 25, 11 2016, at 11:46 a.m. Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Wonderful. And the body says -- 14 we can both read it together, but it says: Hi 15 Krishna, this is to confirm that we spoke about 16 an incident today where a ceiling fan downrod 17 slid out of your shopping cart at Register 9 at 18 9:37 a.m. and struck your ankle while you were 19 paying for your purchase.</p> <p>20 I didn't finish the rest of it, but 21 let's just finish it. When you -- the rest of 22 it says: When you called me at 11:35 a.m., you 23 stated that the site of the injury was starting 24 to have a burning sensation. If there is any</p> <p style="text-align: right;">24</p>



<p>1 update or change in your condition, please let 2 me know. And then you list his phone number. 3 By looking at this e-mail, that we're 4 marking as your Deposition Exhibit No. 1, does 5 that refresh your memory that you spoke to my 6 client? 7 A. No, actually. 8 Q. Okay. So just by looking at this, you 9 can read it just like anyone else, but it 10 doesn't refresh your memory about anything that 11 happened on the telephone between yourself and 12 Krishna Narsimhan; is that accurate? 13 A. Correct, yes. 14 Q. Okay. Fair enough. So that being 15 said, let's just make sure that we're clear. 16 The e-mail address that's listed here, it says 17 Jody.T.Rankin@store.lowes.com. Was that, in 18 fact, your e-mail address at the time? 19 A. Yes. 20 Q. And the salutation at the bottom says, 21 thanks, and it says Jody Rankin, Store Manager, 22 1821, Lowe's of Carol Stream. Do you see that? 23 A. Yes. 24 Q. What does 1821 mean?</p> <p style="text-align: right;">25</p>	<p>1 sharing that at the moment, and we're going to 2 move on. 3 Now, with regards to this incident that 4 we're talking about of the downrod sliding out 5 of a shopping cart and striking my client, do 6 you recall speaking to any witnesses who 7 actually observed the incident? 8 A. No. 9 Q. Do you recall doing any kind of like 10 investigation or taking any action relative to 11 that incident? 12 A. I do not. 13 Q. Okay. Do you recall looking at the 14 video of that incident? 15 A. No. 16 Q. Do you recall ever speaking to 17 Eileen Parks about the incident? 18 A. No. 19 Q. Okay. I'll show you what I can -- 20 oops, hold on a moment, sorry. 21 I'm just going to wrap up by showing 22 you a couple of extra documents and see if it 23 refreshes your memory. And if it doesn't, 24 that's fine too, but I have to just find out.</p> <p style="text-align: right;">27</p>
<p>1 A. That's the store number. 2 Q. Store number, the Lowe's number, each 3 store has a number, right? 4 A. Yes. 5 Q. Okay. So that would -- that would be 6 consistent with the Carol Stream store, I'm 7 guessing, right? 8 A. Yes. 9 Q. Okay. So looking at this salutation, 10 which says Jody Rankin, Store Manager, Lowe's of 11 Carol Stream, that would be consistent with an 12 e-mail that you would have sent, right? 13 A. Yes. 14 Q. Okay. So looking at this document, you 15 don't have any reason to doubt that this is an 16 e-mail that you sent back on June 25, 2016, at 17 11:46 a.m., do you? 18 A. No. 19 Q. Okay, okay. And it's just that it 20 doesn't refresh your memory. You've probably 21 spoken to so many people on the phone, you just 22 don't recall; is that fair? 23 A. Yes, correct. 24 Q. Okay. I am going to -- whoops -- stop</p> <p style="text-align: right;">26</p>	<p>1 We could mark, as your Deposition 2 Exhibit No. 2, an incident report document from 3 Lowe's. Do you see this document? 4 A. Yes. 5 (whereupon, RANKIN Deposition 6 Exhibit No. 2 was marked for 7 identification.) 8 BY MR. BERMAN: 9 Q. This is a document, I assume, that 10 you're familiar with because working at Lowe's 11 you're familiar with these types of doc -- these 12 types of forms, right? 13 A. Yes. 14 Q. It -- at the top, it's a little bit cut 15 off, but this is how it was produced to us. I 16 believe it says incident report, though, for 17 customer incident only, right? 18 A. Yes. 19 Q. Is this a type of document that you've 20 been involved in filling out in the past when 21 working at Lowe's? 22 A. Yes. 23 Q. At the top, right-hand corner, it says 24 completed by Jody Rankin, Store Manager. Do you</p> <p style="text-align: right;">28</p>



<p>1 see that there?</p> <p>2 A. Yes.</p> <p>3 Q. So my question for you is, up here at</p> <p>4 the top in section number one, it's handwritten.</p> <p>5 Do you recognize that as being your handwriting?</p> <p>6 A. It is not.</p> <p>7 Q. It is not your handwriting, okay.</p> <p>8 wonderful. Do you know whose it was?</p> <p>9 A. No, I don't.</p> <p>10 Q. Okay. There is some other handwriting</p> <p>11 that appears on this form, like say, for</p> <p>12 example, in box number two. To me, it looks</p> <p>13 different, I'm no expert, but I'm going to ask</p> <p>14 you if you recognize any of the handwriting to</p> <p>15 identify who may have written the handwritten</p> <p>16 portions of box number two on this Exhibit 2?</p> <p>17 A. I wrote the phone number and the e-mail</p> <p>18 address on there.</p> <p>19 Q. Okay. So that -- wonderful. That</p> <p>20 actually appears in blue on the form, right?</p> <p>21 A. Yes.</p> <p>22 Q. Do you see that? Okay. Other than</p> <p>23 what appears in blue, I'm just going to throw it</p> <p>24 out to you by, you know, looking at the form, is</p> <p style="text-align: right;">29</p>	<p>1 A. Yes.</p> <p>2 Q. In your knowledge of the Lowe's store</p> <p>3 as store manager, she would have the authority</p> <p>4 to fill this form out and sign off on it, right?</p> <p>5 A. Yes.</p> <p>6 Q. Got it. I am looking at the form, and,</p> <p>7 obviously, it says employee who last inspected,</p> <p>8 Marcella Martinez' name is listed here. The</p> <p>9 customer's name is listed. The video was pulled</p> <p>10 by Eileen Parks, which would be consistent with</p> <p>11 her responsibilities, right?</p> <p>12 A. Yes.</p> <p>13 Q. Does this form -- looking at this form</p> <p>14 refresh your memory of this incident at all?</p> <p>15 A. No.</p> <p>16 Q. Okay. Does this form refresh your</p> <p>17 memory of any conversations you may have had</p> <p>18 relative to this incident at all?</p> <p>19 A. No.</p> <p>20 Q. Got it. By looking at this form --</p> <p>21 again, I don't see it, but maybe I'm not seeing</p> <p>22 it correctly. By looking at this form, is there</p> <p>23 any way that this form can help us identify who</p> <p>24 the head cashier was at the time of the</p> <p style="text-align: right;">31</p>
<p>1 there any other portions of the document that</p> <p>2 you recognize, any of the handwriting</p> <p>3 whatsoever?</p> <p>4 A. No.</p> <p>5 Q. Okay. Other than yourself at Lowe's</p> <p>6 over at -- around June 25, 2016, was there any</p> <p>7 other employee who would have the responsibility</p> <p>8 of filling out a form, such as this one, this</p> <p>9 Exhibit 2, this incident report?</p> <p>10 A. The -- any manager on duty or assistant</p> <p>11 manager would have the responsibility if it</p> <p>12 occurred. And also Eileen Parks would have that</p> <p>13 same responsibility.</p> <p>14 Q. Okay. And it looks like at the bottom</p> <p>15 of the form, and, again, I'm just asking. If</p> <p>16 you don't know, that's fine, but I have to ask.</p> <p>17 It says sign off, print first/last name. It</p> <p>18 appears, to me, that it's signed by</p> <p>19 Eileen Parks. Do you even -- do you recognize</p> <p>20 her signature there?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. So from your knowledge of</p> <p>23 Eileen Parks, you recognize that she did sign</p> <p>24 the document?</p> <p style="text-align: right;">30</p>	<p>1 incident?</p> <p>2 A. Well, yeah -- well, it could have been</p> <p>3 Marcella Martinez, but yeah, I can't confirm</p> <p>4 that -- that she's -- her name is on there as</p> <p>5 being there in that area, but I can't confirm</p> <p>6 she is actually the head cashier, no.</p> <p>7 Q. Okay. It's my understanding that she</p> <p>8 was a cashier but not the head cashier, so I'm</p> <p>9 just wondering if there's anything else, like</p> <p>10 there would be any other identifying -- other</p> <p>11 ways to identify if she is not the head cashier,</p> <p>12 who would be -- would have been at that time of</p> <p>13 the incident. Is there any way you can think</p> <p>14 of?</p> <p>15 A. No.</p> <p>16 Q. Okay. You would agree with me that --</p> <p>17 well, correct me if I'm wrong, but would you</p> <p>18 agree with me that if a Lowe's store cashier is</p> <p>19 placing a metal downrod into a customer's cart,</p> <p>20 the Lowe's employee should perform that task</p> <p>21 carefully so that it doesn't fall through the</p> <p>22 customer's cart and hit a customer's ankle,</p> <p>23 right?</p> <p>24 A. Yes.</p> <p style="text-align: right;">32</p>



<p>1 Q. Okay. From this document, from the 2 e-mail, from any memory you may have of the 3 incident, is there anything that you know of, 4 from talking to people involved or witnesses, 5 that in any way indicates that Krishna Narsimhan 6 had any responsibility for the downrod falling 7 through the cart and hitting his foot? 8 A. No. 9 Q. Okay. By looking at the type of 10 product, it says 48-inch bronze downrod, there's 11 an item number, and it says vendor name Harbor 12 Breeze. And we know it's for a ceiling fan. 13 Are you familiar with that type of product? 14 A. Yes. 15 Q. It says bronze. Is it solid bronze or 16 just bronze -- bronze plated, to your knowledge? 17 A. Bronze plated. 18 Q. Do you know what the rest of the item 19 is made of? 20 A. I don't, no. 21 Q. Okay. Do you have any knowledge of 22 the -- the weight of that item? 23 A. Under a pound, probably, a couple -- 24 maybe a couple of pounds.</p> <p style="text-align: right;">33</p>	<p>1 BY MR. BERMAN: 2 Q. Is this a document that you've seen 3 ever before right now? 4 A. Not that I recall. 5 Q. Okay. It says at the top, customer 6 came to my register at 9:35 a.m. I'm just going 7 to kind of highlight where I'm reading from. I 8 was putting the item back into the cart, 9 downrod, one of them fell through the cart 10 holes. I watched it fall out and told him, be 11 careful. 12 Again, you can read the rest of this 13 yourself. I'm not trying to step on your toes, 14 but by looking at this document -- again, the 15 question is, does this refresh your memory of 16 speaking to Marcella or of any knowledge or 17 information about this incident that you may -- 18 A. No. 19 Q. -- have had? 20 A. No. 21 Q. Okay. From working at Lowe's for 13 22 years, you know, quite some time, have you heard 23 of any other incidents that were similar to this 24 incident with my client in which an object fell</p> <p style="text-align: right;">35</p>
<p>1 Q. So maybe a couple of pounds, you think? 2 A. Maybe, yeah. It's not very heavy. 3 Q. Yeah, okay. Is it solid metal or is it 4 hollow, to your knowledge? 5 A. It's hollow. 6 Q. It's hollow, okay. Got it. I'll stop 7 sharing the screen on that. 8 And I was going to ask you about one 9 other thing, but before I even do, did you ever 10 observe or see the handwritten statement that 11 was done by Marcella Martinez? 12 A. I don't recall seeing it. 13 Q. Okay. I'll show you, and, again, I'm 14 just going to ask if this refreshes your memory. 15 If not, that's fine, but I have to ask. 16 What I'm showing you, and we'll mark as 17 your Deposition Exhibit 3, is a handwritten 18 statement signed by Marcella Martinez dated, 19 again, 6/25/16, okay, and it's relating to the 20 incident. 21 (Whereupon, RANKIN Deposition 22 Exhibit No. 3 was marked for 23 identification.) 24</p> <p style="text-align: right;">34</p>	<p>1 through one of the holes in the cart and struck 2 a person in the foot or the leg? 3 A. No. 4 Q. Have you ever heard of that happening 5 at Home Depot? 6 A. No. 7 Q. Okay. Would you agree with me that if 8 a metal downrod is placed into a cart carefully, 9 that this incident should never have happened? 10 A. Yes. 11 Q. Okay. And again, I -- you know, to be 12 clear, you were disclosed as one of the -- by 13 the defendant as somebody who was present at 14 the -- on the job floor or at least on the site 15 at the time of the accident. And to be clear, 16 you can't tell me where you were within the 17 store at the time of the incident, and that's 18 accurate? 19 A. Correct. 20 Q. Okay. Other than what was written in 21 the e-mail that was purportedly written by you 22 to Krishna Narsimhan, you don't have any other 23 knowledge of Mr. Narsimhan's injuries from this 24 incident, do you?</p> <p style="text-align: right;">36</p>



<p>1 A. No.</p> <p>2 Q. Okay. You never -- as far as you know,</p> <p>3 you've never seen Krishna Narsimhan ever again</p> <p>4 since June 25, 2016?</p> <p>5 A. No, I have not.</p> <p>6 Q. Or even on that day, you don't recall</p> <p>7 ever seeing him that day either, correct?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. I'm just checking my notes,</p> <p>10 Mr. Rankin.</p> <p>11 To your knowledge, after this incident</p> <p>12 occurred, was there any kind of safety meeting</p> <p>13 or safety stand-down or conversation over at</p> <p>14 Lowe's with the associates, or anyone at the</p> <p>15 store, as to try to prevent such an incident</p> <p>16 from ever occurring again?</p> <p>17 A. Not that I recall.</p> <p>18 Q. When you left Lowe's, was this employee</p> <p>19 Marcella Martinez still employed there?</p> <p>20 A. I don't recall.</p> <p>21 Q. You don't know, okay.</p> <p>22 Mr. Rankin, that's all the questions I</p> <p>23 have at this time. Thank you for your time.</p> <p>24 I'm sure Mr. Young has some follow-ups,</p> <p style="text-align: right;">37</p>	<p>1 A. Correct.</p> <p>2 Q. Was Marcella put on any type of work</p> <p>3 probation or retraining or anything like that</p> <p>4 that you can recall?</p> <p>5 A. I don't recall.</p> <p>6 Q. If she had, would that be in her</p> <p>7 personnel file or would there be any</p> <p>8 documentation to that effect?</p> <p>9 A. There would be no documentation for a</p> <p>10 retraining or a training documentation or</p> <p>11 anything like that, no. The only documents we</p> <p>12 would hold on to are performance documentations.</p> <p>13 Q. Okay. Was -- let me look at my notes</p> <p>14 here. We can get back to the -- Steve asked you</p> <p>15 about the product, the specific product. And I</p> <p>16 just want to make sure we're clear. It was</p> <p>17 hollowed and it was a -- it was bronze plated,</p> <p>18 correct?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. And you are familiar with that</p> <p>21 product, correct?</p> <p>22 A. Correct.</p> <p>23 Q. And your testimony, when he asked you</p> <p>24 about the weight of the product, I recall you</p> <p style="text-align: right;">39</p>
<p>1 potentially.</p> <p>2 MR. YOUNG: I do. Thanks, Steve.</p> <p>3 Jody, hi, Tim Young, I represent</p> <p>4 Lowe's. How are you doing?</p> <p>5 THE WITNESS: Good. Thank you.</p> <p>6 EXAMINATION</p> <p>7 BY MR. YOUNG:</p> <p>8 Q. Good. I will be a little shorter than</p> <p>9 Steve. Steve had the hard job.</p> <p>10 So outside of the incident report that</p> <p>11 Steve showed you and the statement that he</p> <p>12 showed you, handwritten statement of Marcella</p> <p>13 Martinez, fair to say you don't have any other</p> <p>14 information, details, facts as to how this</p> <p>15 incident occurred; is that proper?</p> <p>16 A. Correct, yes.</p> <p>17 Q. And you have no independent</p> <p>18 recollection of this incident outside of the</p> <p>19 materials that you've been shown by -- by Steve</p> <p>20 today, correct?</p> <p>21 A. Correct.</p> <p>22 Q. Now, you said you couldn't remember any</p> <p>23 post-accident communications regarding</p> <p>24 Marcella's work or the incident, correct?</p> <p style="text-align: right;">38</p>	<p>1 saying initially it was under one pound or could</p> <p>2 be a couple of pounds. Do you remember that?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Is it fair to say that the --</p> <p>5 the product that has been identified as being</p> <p>6 involved in this incident was, at most, a couple</p> <p>7 of pounds and could be under a pound?</p> <p>8 A. It probably -- now that I think about</p> <p>9 it, it's probably more like a couple of pounds,</p> <p>10 two to three pounds. It's probably -- it's</p> <p>11 probably more than one pound. It's probably --</p> <p>12 a 48-inch downrod is probably two to</p> <p>13 three pounds.</p> <p>14 Q. Okay. All right. And you've handled</p> <p>15 those before, is it fair to say?</p> <p>16 A. Yes.</p> <p>17 Q. Now, with respect to -- to checkout</p> <p>18 carts, do you know the actual checkout cart that</p> <p>19 Mr. Narsimhan was using on the date of the</p> <p>20 incident?</p> <p>21 A. From the descriptions of what I've</p> <p>22 heard, I can picture which shopping cart was</p> <p>23 being used, yes.</p> <p>24 Q. What can you picture?</p> <p style="text-align: right;">40</p>



<p>1 A. The red shopping cart that -- that has 2 holes in it, a normal cart at shopping centers. 3 Q. All right. It kind of looks like a 4 Jewel shopping cart, maybe bigger? 5 A. Yeah. Yes. 6 Q. Plastic or steel? 7 A. Plastic. 8 Q. Back in 2016, you were familiar with 9 those? 10 A. Yes. 11 Q. Was that the Lowe's -- that was a cart 12 that Lowe's used in its stores? 13 A. Yes. 14 Q. Now, did Lowe's have any other carts 15 available for customer use? 16 A. Yes. 17 Q. What -- what were those? 18 A. There was a flatbed cart that is low to 19 the ground that's used to carry heavy objects, 20 such as lawnmowers, things along those lines. 21 There are other carts that are flat but more 22 about waist high that are used to carry drywall, 23 things along that nature. And then there is a 24 cart, that has been described as an H-cart or a</p> <p style="text-align: right;">41</p>	<p>1 A. Yes. 2 Q. Is that a product that you sell in Home 3 Depot stores? 4 A. No. 5 Q. All right. But you did sell them at 6 Lowe's, correct? 7 A. Yes. 8 Q. And you sold them back in June of '16, 9 right? 10 A. Yes. 11 Q. And, generally speaking, what size of a 12 box would that fan -- would a Hunter fan be in? 13 And I know I'm not giving you any dimensions or 14 anything like that, but just generally speaking. 15 A. Probably two -- 2 feet by maybe a foot 16 and half. Yeah, two -- yeah, so it's about the 17 general size of it, so... 18 Q. All right. And would a box that size 19 fit into one of the red shopping carts? 20 A. Yes. 21 Q. Would -- would it also fit into any of 22 the other carts that you identified, other than 23 the red shopping cart? 24 A. It would fit into any of them, yes.</p> <p style="text-align: right;">43</p>
<p>1 taco cart, that is used to carry items such as 2 2-by-4s, drywall, things along that line. 3 Q. All right. Are there -- are those 4 carts, the flatbed carts, the flat and waist 5 height -- high cart and the H-cart, do those 6 carts have holes in them? 7 A. The flat cart does not. The H-cart is 8 completely open. It's just a -- it is -- 9 it's -- it's tubular steel that is used to keep 10 upright doors and drywall and you can lay 11 2-by-4s down on the sides of it, so... 12 Q. All right. I went off screen because I 13 want to look at something, and I'll be right 14 back. 15 Mr. -- or Jody, I want you to assume 16 that Mr. Narsimhan that day was purchasing a 17 Hunter fan as a replacement fan for his home, 18 and included in that fan was a -- the need for a 19 downrod, okay? 20 A. Yes. 21 Q. I realize I'm not -- I'm not giving you 22 any details with respect to the size of that box 23 or whatever, but are you familiar with Hunter 24 fans?</p> <p style="text-align: right;">42</p>	<p>1 Q. Do you know how heavy, generally 2 speaking again, a Hunter fan might be? 3 A. Maybe 20 pounds. 4 Q. Okay. Do customers have the right to 5 select whatever cart they want when they enter 6 into a Lowe's store? 7 A. They do, yes. 8 Q. Lowe's employees don't -- strike that. 9 And it's -- Lowe's relies on the 10 customers to determine what carts they need in 11 order to select the product that they want, 12 right? 13 A. Yes. 14 Q. Lowe's is a self-serve store; fair to 15 say? 16 A. Yes. 17 Q. Consumers can ask -- customers can ask 18 questions of Lowe's personnel if they need be, 19 but, generally speaking, the customer is on 20 their own to select, put in their carts, bring 21 up for customer checkout whatever items they 22 want, correct? 23 A. Yes, correct. 24 Q. I want -- I want you to assume that</p> <p style="text-align: right;">44</p>

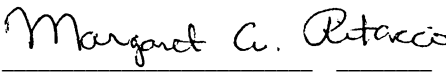


<p>1 Ms. Martinez -- when Mr. Narsimhan came up to 2 check out, he pushed his cart into checkout area 3 nine at the Lowe's store in question, and she 4 was -- she scanned the -- the fan and then got 5 the rod out in order to scan that, okay. Was 6 that -- based upon your experience and work at 7 Lowe's, back in June 2016, was that proper for a 8 customer service cashier to do? Was that proper 9 activity for them to do as far as checking out a 10 customer? 11 A. Yes. 12 Q. Okay. And once completing the scanning 13 of the -- of the rod, she then put it back in 14 the cart and that's when the accident occurred, 15 okay. So my question to you is, was it proper 16 for her to put it back into the cart? 17 A. Yes. 18 Q. Okay. Now, obviously, this accident 19 occurred, okay. But out -- certainly outside of 20 the accident occurring, was her activities in 21 performing her job responsibilities that day 22 proper and consistent with Lowe's policy? 23 A. Yes. 24 Q. And subsequent to this incident, she</p> <p style="text-align: right;">45</p>	<p>1 Q. So would a downrod fit flat in that red 2 cart, to your knowledge? 3 A. No, it would not. 4 Q. So how -- how is a downrod of that size 5 -- well, have you ever had any experience 6 putting a downrod into a red flat -- into a red 7 cart at Lowe's? 8 A. Yes. 9 Q. Okay. How is that -- how have you done 10 that? 11 A. Placed -- well, placed one end against 12 the front of the cart and the rod would -- would 13 travel backwards. And if it would fit into the 14 cart, I mean, it would fit flat. Otherwise, it 15 would stick above -- above the handle area where 16 the customer would push it with the handle. 17 Q. Okay. Why would you put it in that 18 manner? 19 A. It would be the most secure way of 20 doing that. 21 Q. With the part sticking out of the cart 22 being closest to who, the driver of the cart 23 or -- 24 A. Yeah.</p> <p style="text-align: right;">47</p>
<p>1 was not reprimanded for her activities as a 2 cashier; is that correct? 3 A. Correct. 4 Q. You don't have any knowledge as to how 5 this -- this downrod was placed in the cart when 6 Ms. Martinez removed it from the cart to scan 7 it; is that correct? 8 A. Correct. 9 Q. You just know that it was -- based upon 10 the incident report, it was 48 inches long, 11 correct? 12 A. Correct. 13 Q. How -- how is a 48-inch -- well, strike 14 that. 15 How -- how long and how wide are those 16 red basket carts? 17 A. I'd be guessing. I mean, I can 18 probably tell you an approximate size. 19 Q. Please. 20 A. They would be approximately, probably, 21 three and half feet by two feet. 22 Q. Okay. And a 48-inch downrod would be 23 four feet, correct? 24 A. Correct.</p> <p style="text-align: right;">46</p>	<p>1 Q. -- the front? 2 A. No, the driver of the cart. 3 Q. Do you know how this rod was positioned 4 before Ms. Martinez took it out of the cart? 5 A. No. 6 MR. YOUNG: I think that's all I have. Thank 7 you, sir. Steve may have some. 8 MR. BERMAN: Just a few follow-up questions 9 based upon some of the things you were just 10 asked. 11 FURTHER EXAMINATION 12 BY MR. BERMAN: 13 Q. You said that, in the past, you've 14 placed a 48-inch downrod into a red cart and you 15 did it in a careful manner, right? 16 A. Yes. 17 Q. Okay. And obviously, if you had seen a 18 customer over at Lowe's with a red cart and a 19 Hunter fan and a 48-inch downrod in their cart 20 walking around and continuing shopping, you 21 wouldn't have found that to be unusual, would 22 you? 23 A. Correct, no, I would not. 24 Q. Okay. Now, you would consider that --</p> <p style="text-align: right;">48</p>



<p>1 placing the Hunter fan and the downrod into the 2 red cart generally using ordinary care, while -- 3 as a customer walking around the store, right? 4 A. Yes. 5 Q. Okay. You talked about the job tasks 6 of a cashier, and I understand that. Would it 7 be fair to say, as the store manager for Lowe's, 8 you would expect your cashiers to perform their 9 job tasks in a careful manner, right? 10 A. Yes. 11 Q. You would agree that -- on behalf of 12 Lowe's as their store manager, you would agree 13 that it was the responsibility of the cashiers 14 to perform their tasks -- their job tasks 15 reasonably carefully when it comes to putting a 16 downrod back up into a person's cart so as not 17 to injure a person, right? 18 A. Yes. 19 MR. BERMAN: Okay. Sir, I don't have any 20 further questions. Anything else? 21 MR. YOUNG: Maybe just one or two. 22 FURTHER EXAMINATION 23 BY MR. YOUNG: 24 Q. Mr. Rankin, do you have any reason to</p> <p style="text-align: right;">49</p>	<p>1 MR. BERMAN: Okay. No further questions. I 2 believe -- and I'm trying to remember, Tim, you 3 can help me out here, but I believe that you 4 have the right to sign -- review the deposition 5 transcript, if you'd like. Mr. Rankin, if you 6 want to review the deposition transcript just to 7 proofread it, to see that what was transcribed 8 was accurately written of what we all said 9 today, you have the right to do that. If you 10 wish to waive that right, you don't have to 11 proofread the transcript. I think most 12 witnesses waive, but it's really up to you, it's 13 your choice. 14 MR. YOUNG: It's truly -- Steve is accurate. 15 It's truly a proofreading. You can't change 16 your testimony. You know, if you said no to 17 something, you can't say yes to something now, 18 so... 19 THE WITNESS: Yeah. I waive that right. 20 MR. BERMAN: Okay. Thank you very much for 21 your time, sir, I appreciate it. 22 MR. YOUNG: Thanks, Jody. Thanks, Steve. 23 MR. BERMAN: Yeah. And, Margie, we'll be 24 ordering the transcript, okay?</p> <p style="text-align: right;">51</p>
<p>1 question Ms. Martinez' actions in putting the 2 downrod back into the cart, that she did so in a 3 safe manner? 4 MR. BERMAN: Objection as to foundation. 5 THE WITNESS: No. 6 BY MR. YOUNG: 7 Q. You have no -- you don't have any 8 reason to doubt that she was not being careful 9 when she was putting the downrod back into the 10 cart? 11 A. No. 12 MR. BERMAN: Objection to form and 13 foundation, reason to doubt. 14 BY MR. YOUNG: 15 Q. Did she ever tell you -- do you have an 16 independent recollection of her ever telling you 17 that she was hurrying or she was not being 18 careful at the time? 19 A. I do not. 20 Q. Do you have any written documentation 21 that suggests that she was not being careful in 22 performing her job responsibilities that day? 23 A. No. 24 MR. YOUNG: That's all I have.</p> <p style="text-align: right;">50</p>	<p>1 THE REPORTER: Yes. 2 MR. BERMAN: If you need, I can get you 3 the -- I can get you the exhibits. I'll e-mail 4 those over to you. 5 THE REPORTER: All right. 6 MR. YOUNG: And, Margie, I'll take an e-tran 7 with an index. 8 (Proceedings concluded at 11:09 a.m.) 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> <p style="text-align: right;">52</p>



<p>1 STATE OF ILLINOIS) 2) SS: 3 COUNTY OF C O O K) 4 I, MARGARET A. RITACCO, a notary public 5 within and for the County of Cook and State of 6 Illinois, do hereby certify that heretofore, 7 to-wit, December 9, 2020, personally appeared 8 before me, via videoconference, JODY RANKIN, in 9 a cause now pending and undetermined in United 10 States District Court, Northern District of 11 Illinois, Eastern Division, wherein 12 KRISHNA NARSIMHAN, is the plaintiff, and 13 LOWE'S HOME CENTERS, LLC, is the Defendant. 14 I further certify that the said 15 JODY RANKIN was first duly sworn to testify the 16 truth, the whole truth and nothing but the truth 17 in the cause aforesaid; that the testimony then 18 given by said witness was reported 19 stenographically by me in the presence of the 20 said witness, and afterwards reduced to 21 typewriting by Computer-Aided Transcription, and 22 the foregoing is a true and correct transcript 23 of the testimony so given by said witness as 24 aforesaid.</p> <p style="text-align: right;">53</p>	
<p>1 I further certify that the signature to 2 the foregoing deposition was waived by counsel 3 for the respective parties. 4 I further certify that the taking of this 5 deposition was pursuant to subpoena and that 6 there were present at the deposition the 7 attorneys hereinbefore mentioned. 8 I further certify that I am not counsel 9 for nor in any way related to the parties to 10 this suit, nor am I in any way interested in the 11 outcome thereof. 12 IN TESTIMONY WHEREOF: I have hereunto 13 set my hand and affixed my notarial seal this 14 17th of December, 2020. 15 16 17 18  19 _____ 20 NOTARY PUBLIC, COOK COUNTY, ILLINOIS 21 LIC. NO. 084-002796 22 23 24</p> <p style="text-align: right;">54</p>	

